

## **TITLE 14**

### **ZONING**

#### **Chapters:**

- 14.04 Zoning Regulations
- 14.08 Mobile Homes
- 14.09 Wireless Communication Towers and Small Cells
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### **CHAPTER 14.04**

#### **ZONING REGULATIONS**

#### **Sections:**

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**14.04.01 PURPOSE AND AUTHORITY** The City Council has deemed it necessary to revise the city's zoning regulation for the purpose of promoting the health, safety, and general welfare of the city.

The zoning regulations and districts as set forth herein, have been made in accordance with a general plan for land use, major streets and community facilities. This ordinance is proposed to preserve the attractiveness and protect the environment of residential areas and to safeguard the business and industrial locations, which are important to the economic welfare of the inhabitants. It has been designed to lessen congestion in the streets, to conserve property values, to secure

safety from fire, panic and other dangers, and to promote the health and general welfare of the citizens of the city.

Act 186 of 1957, as amended, enacted by the General Assembly of the state of Arkansas, provides the city, under guidance of the Planning Commission, with the authority to adopt, administer, enforce, and amend these regulations. (Ord. No. 97-8, Ch. 1.)

**14.04.02 DEFINITIONS** Certain words and phrases shall, for the purpose of this ordinance, have the following definitions:

**Accessory structure** A subordinate structure located on the lot with the principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a roof, such accessory structure shall be considered as a part of the principal structure.

**Accessory use** A use which is customarily incidental to the principal use, as a garage for the storage of an automobile by occupant or resident

**Alley** A minor public way not over twenty (20) feet in width.

**Area** the amount of land surface in a lot or parcel of land.

**Area requirements** the lot area, width of lot, height of structure, and parking requirements as set forth in a specific zone in this ordinance.

**Buildable area** the portion of a lot remaining after required setbacks have been reserved.

**Dwelling, condominium** a single dwelling unit in a multi-unit dwelling or structure, which is separately owned, and which may be conveyed with an undivided interest in the common areas and facilities of the property. A condominium dwelling unit does not necessarily have to have a separate outside door. (Ord. No. 2006-36, Sec. 1.)

**Dwelling, duplex** a building having accommodations for and occupied exclusively by two families. Occupancy is restricted to one family per unit. (Ord. No. 2006-36, Sec. 1.)

**Dwelling, single family** a detached residential dwelling unit designed for and occupied by one family only and being securely attached to a permanent foundation.

**Dwelling, multi-family** a residential building or buildings designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, townhouse** a single-family dwelling which is attached to one or more similar dwellings by a common fire wall or fire walls, interior to both, and which in combination with said attached dwellings constitutes an architectural whole, on a separate lot, having its principal frontage on a street and having a rear yard. Such dwelling units when so constructed may be under separate ownership. (Ord. No. 2006-36, Sec. 1.)

**Dwelling, two-family** a detached residential building or buildings containing two dwelling units, designed for occupancy by not more than two families.

**Dwelling unit** one room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Family** one or more persons occupying premises and living as a single, non-profit housekeeping unit.

### **Fence**

- A. **Boundary fences and hedges** any fence or hedge located on the side and rear property lines and anywhere in front yards, approximately parallel to the lot line. On side and rear lot lines, fences and hedges are limited to a maximum height of five (5) feet, and in front yards, fences and hedges are limited to a height of three and one-half (3 ½) feet.
- B. **Privacy fences** any fence that is not a boundary fence or a swimming pool fence. Privacy fences may be located within five (5) feet of side and rear lot lines. Privacy fences may not be located anywhere in front yards and must terminate along side yards at the front corner of the primary structure. Privacy fences are limited in height to eight (8) feet.
- C. **Swimming pool fences and gates** are required to have a minimum height of six (6) feet and a maximum height of eight (8) feet, unless they are part of a boundary or privacy fence, where they take their maximum height. Additionally, gates must have child-resistant latches.
- D. **Wall** any device forming a physical barrier which is constructed so that the vertical surface is closed, thus preventing the passage of light, air and vision in a horizontal place. The material of which a wall is constructed may be masonry, brick, concrete, metal, wood, or other similar materials. Walls may be located within five (5) feet of side and rear lot lines and anywhere in front yards, approximately parallel to the lot line. On side and rear lot lines, walls are limited to a maximum height of five (5) feet, and in front yards to a height of three (3) feet.

Fences and walls are not to be considered accessory structures or uses.

**Lot** a parcel of land occupied or intended for occupancy by a use permitted in this ordinance including one main building together with its accessory building, and the open spaces and parking spaces required by the ordinance, and having its principal frontage upon a public street.

### **Lot measurement**

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

**Lot of record** a lot which is a part of a subdivision recorded in the office of the Circuit Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Manufactured home**

- A. **Manufactured home** a dwelling built in a factory in accordance with the Federal Manufactured Home Construction and Safety Standards. The term “Modular Home,” as it is used throughout the zoning regulations, shall include manufactured homes.
- B. **Mobile home** a dwelling that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, built prior to the enactment of the Federal Manufactured Home Construction and Safety Standards in 1976, and consistent with any existing state definitions.
- C. **Modular home** a residential dwelling, construction in a factory to a residential construction code other than the Federal Manufactured Home Construction and Safety Standards. the term “Modular Home,” as it is used throughout the zoning regulations, shall include manufactured homes. (Ord. No. 98-5, Sec. 1.)

**Modular house subdivision**

- A. **Modular house subdivision** a parcel of land platted according to all requirements of the subdivision regulations, and in compliance with the zoning regulations, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes and/or modular homes.
- B. **Mobile home park** any park, court, lot, parcel or tract of land designed, maintained or intended to supply a location for the placement of mobile homes, but which does not meet the requirements of the subdivision and zoning regulations. “Mobile home park” shall not include modular house subdivisions as that term is defined herein. (Ord. No. 98-5, Sec. 3.)

**Non-conforming** any legal use of property (land or structure) existing at the time of passage of this ordinance that does not conform to the regulations prescribed in this ordinance.

**Open space** any unoccupied space on a lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatever.

**Overhang** that portion of a structure which extends out or protrudes from the exterior wall of a structure. The length of the overhang shall be measured as that distance between the horizontal plane and the surface of the exterior wall to the further most point of the overhang. Under no circumstances may said overhang extend out beyond two feet.

**Parking space** one hundred sixty-two (162) square feet (9' x 18') of usable and accessible space, excluding the area necessary for access.

**Person** any individual, partnership, firm, company, corporation, tenant, owner, lessees or licensee, their agents, heirs or assigns.

**Places of public assembly** a meeting place that will accommodate thirty-five (35) or more persons to which the public or membership groups are assembled regularly or occasionally, including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, or similar places of assembly. Classrooms within a school or schools without auditoriums or gymnasiums are not, for the purpose of this ordinance, considered places of public assembly.

**Principal use** the chief or main recognized use of a structure, of a lot, or of land.

**Property line** the line bounding a lot as defined herein.

**Right-of-way** the land opened, reserved or dedicated for street, walk, drainage or other public purposes.

**Setback** that part of a lot upon which the city prohibits the erection or construction of any principal structure. However, this prohibition shall not apply to any accessory structures as defined in Chapter 4, all zoning districts. Said setback shall be measured from the planning right-of-way as shown on the Master Street Plan to the face of the exterior wall of the structure or improvement. In calculating the setback, not more than two (2) feet of overhang will be permitted to extend into the setback.

**Sight triangle**

- A. **Sight triangle** an area of land, at an intersection or on a curve for which a clear visibility zone (see B below) must be maintained, described as follows: commencing at the property corner and measuring no less than twenty-five (25) feet along the right-of-way in both directions.
- B. **Clear visibility zone** an area of safe traffic visibility bordered by a slight triangle that is devoid of visual obstructions, both natural and man-made temporary or permanent (except traffic control devices), commencing at a point that is not greater than two and a half (2 ½ ) feet above the top of curb or edge of pavement, and

terminates at a point that is not less than seven and a half (7 ½ ) feet higher (a total of ten (10) feet high).

**Signs** any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants, or premises, or other identification of premises not having commercial connections;
- B. Flags and insignia of any government except when displayed in connection with commercial promotion;
- C. Legal notices, identification, informational, or directional signs erected or require by governmental bodies;
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

**Signs, on-site** a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

**Street** a public way of more than twenty (20) feet established by or maintained under public authority, a private way open for public use, or a private way plotted or laid out for ultimate public use, whether or not constructed.

**Street line** the right-of-way line of a street.

**Structure** anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

**Trailer, trailer coach, automobile trailer or recreational vehicle** a structure standing on wheels, towed or hauled by another vehicle or propelled under its own power, and used for short-term human occupancy, carrying of materials, goods or objects, or as a temporary office. This definition does not include modular homes, mobile homes or manufactured homes as previously defined. (Ord. No. 98-5, Sec. 2.)

**Trailer park** any park, trailer court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for trailer coaches and upon which trailer coaches are parked, and shall include all buildings used or intended for use as a part of the equipment thereof whether a charge is made for the use of

the trailer camp and its facilities or not. “Trailer park” shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

**Use of land** the unoccupied portion of a lot shall be considered to be in the same use as is the principal structure located on the lot unless such land is utilized for open storage or agriculture outside of the structure; then the use of land shall be classified according to the nature of its use.

**Uses on appeal/conditional uses** uses on appeal/conditional uses are uses not permitted in a particular zone that require Planning Commission review and approval as to whether the use is compatible and appropriate in that zone. The use may be permitted subject to securing a Conditional Use Permit.

**Yard** must be open, unobstructed and never occupied by a principal building. However, yards can be occupied by any accessory structure or use allowed to locate in that yard (front, rear or side) by the zoning use district in which the lot is located.

- A. **Yard – residential use zoning district** No accessory structure or use is allowed in residential front yards, but they are allowed in side yards and in rear yards as provided for in this ordinance. (Ord. No. 97-8, Ch. 2.)

#### **14.04.03 ZONING MAP**

- A. The zoning districts are designated on the map titled “Zoning Map,” city of Centerton, and said map shall be a part of this ordinance.
- B. The lines delineating the boundaries of the zoning districts on the zoning map are intended to follow city limits lines, center of street rights-of-way, center of main channels of water courses, and existing property lines.
- C. When the street or property layout existing on the ground is at variance with that shown on the zoning map or with other requirements of this ordinance, the Board of Zoning Adjustment shall interpret the boundaries.
- D. If, in accordance with the provisions of this ordinance, changes are made in the district boundaries, such changes shall be entered on the zoning map with the date and ordinance number affecting such change.
- E. The zoning map shall be located at the City Hall and shall be the final authority as to the current zoning status of land, buildings, and other structures in the city. (Ord. No. 97-8, Sec. 3.)

#### **14.04.04 ZONING DISTRICTS**

The city is divided into the following zoning districts as indicated on the zoning map:

**Residential Use Zoning Districts** The residential use zones are intended as areas of residence with certain permitted related uses such as churches, schools, and recreational facilities. The permitted uses and the area requirements establish the character of the zoning districts.

- R-1 – Low Density Residential
- R-2 – Medium Density Residential
- R3-SF – Medium-High Density Single Family Residential
- R3-D – Medium-High Density Two-Family Residential (Duplex)
- R3-MF – Medium-High Density Multi-Family Residential (3-4 dwelling units)
- R4-MF – High Density Multi-Family Residential
- R-MH – Residential Modular House
- R-E – Residential Estate
- RTH-2 – Residential Townhouse Two (Two Single-Family Attached Dwellings)
- RTH-5 – Residential Townhouse Five (3-5 Single-Family Attached Dwellings)
- R-C – Residential Condominiums with up to Twelve (12) Dwelling Units per Acre

(Ord. No. 2021-59, Sec. 1.)

**Commercial Use Zoning Districts** Commercial use zones are intended for the conduct of business and provisions of services and the processing and manufacturing of goods which by the nature of the operation do not constitute a nuisance or a danger to the community

- C-1 – Central Business District
- C-2 – Highway Commercial
- C-3 – Neighborhood Commercial

**Industrial Use Zoning Districts** Industrial use zones are intended for general manufacturing and industrial activities, and for the bulk storage of goods.

- I-1 – Light Industrial
- I-2 – Heavy Industrial

**Agricultural Use Zoning District** The Agricultural Use Zone is intended to provide for the full range of agricultural activities and to protect flood areas from development.

- A-1 – Agricultural
- (Ord. No. 97-8, Sec. 4.01.)

**A. APPLICATION OF ZONING DISTRICT REGULATIONS:**

1. The area requirements pertaining to each zoning district shall be applied uniformly within the zoning district except as may be varied by the Board of Zoning Adjustment.
2. The uses permitted, conditionally permitted, or prohibited in each zoning district establishes the character of the zoning district and shall include, but shall not be limited to, those uses enumerated as being permitted, conditionally permitted, or prohibited within a respective zoning district as shown in Chapter 4.
3. All front, side, and rear yard setbacks established by this ordinance shall be measured from the planned right-of-way as shown in the Master Street Plan as that term setback is defined in 14.04.02. (Ord. No. 97-8, Sec. 4.02.)

**B. RESIDENTIAL R-1, Low Density Single Family**

This area is intended primary for residential neighborhoods characterized by large lots for single-family dwellings.

1. **Permitted uses:** See Section 4.14 Schedule of uses.
2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a Conditional Use Permit in each case:
  - a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.
  - b. Area requirements – places of public assembly
 

Height – maximum height shall not exceed thirty-five (35) feet for that portion of the structure used for assembly or offices.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.
  - c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).
3. **Area requirements – Residential R-1**
  - a. Minimum lot area - Single-family.....21,780 sq. ft. (½ acre)
  - b. Minimum lot width (front building line) – Single-family.....120 feet
4. **Setback requirements R-1**

- a. Front – Minimum thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.
  - b. Rear - with the principal structure being twenty-five (25) feet from the rear lot line – Minimum twenty-five (25) feet from rear lot line or center of alley if one exists or from the planning right-of-way as shown on the Master Street Plan.
  - c. Side (each) – Minimum fifteen (15) feet from each property line.
  - d. Street side – Minimum thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.
5. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F).
6. **Area requirements - accessory structures and improvements**
- a. Front – Prohibited
  - b. Rear – No accessory structures or improvements will be located within seven (7) feet of the rear property line, further, no accessory structure or improvements will be located on an easement of planning right-of-way as shown on the Master Street Plan.
  - c. Side – Allowed
  - d. Street side – Prohibited  
(Ord. No. 97-8, Sec. 4.03)

**C. RESIDENTIAL R-2, Medium Density Single Family**

This area is intended for residential neighborhoods with suitable lot area for single-family and two-family dwellings.

- 1. **Permitted Uses:** See Section 14.04.14 Schedule of uses.
- 2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a Conditional Use Permit in each case:
  - a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.
  - b. Area requirements – places of public assembly

Height – maximum height shall not exceed thirty-five (35) feet for that portion of the structure used for assembly or offices.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

- c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).

**3. Area requirements – Residential R-2**

- a. Minimum lot area:  
Single-family....8,500 sq. ft.  
Two-family....17,000 sq. ft.
- b. Minimum lot area per dwelling unit:  
Single-family....8,500 sq. ft.  
Two family.....8,500 sq. ft.
- c. Minimum lot width (front building line)  
Single-family....80 feet  
Two-family....100 ft.

**4. Setback requirements R-2**

- a. Front – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.
- b. Rear - Minimum twenty-five (25) feet from rear lot line or center of alley if one exists or from the planning right-of-way as shown on the Master Street Plan.
- c. Side (each) – Minimum seven (7) feet from each property line.
- d. Street side – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.

**5. Off-street parking – Refer to Chapter 4, Section 04.05 (F).**

**6. Area requirements - accessory structures and improvements**

- a. Front – Prohibited
- b. Rear – No accessory structures or improvements will be located within seven (7) feet of the rear property line, further, no accessory structure or improvements will be located on an easement of planning right-of-way as shown on the Master Street Plan.

- c. Side – Allowed
- d. Street side – Prohibited  
(Ord. No. 97-8, Sec. 4.04)

**D. RESIDENTIAL R3-SF, Medium-High Density Single Family**

This area is intended for detached single-family dwellings with a suitable lot area.

- 1. **Permitted uses:** See Section 4.14 Schedule of uses.
- 2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a Conditional Use Permit in each case:

- a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.
- b. Places of Public Assembly

Height – maximum height shall not exceed forty (40) feet for that portion of the structure used for assembly or offices measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

- c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).

**3. Area requirements**

- a. Minimum lot area: 6,000 sq. ft.
- b. Minimum lot width (front building line): 60 feet

**4. Setback requirements**

- a. Front – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.

- b. Rear - Minimum twenty (20) feet from rear lot line, access easement, or planning right-of-way as shown on the Master Street Plan.
  - c. Side (each) – Minimum seven (7) feet from the side property line.
  - d. Street side – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan. (Ord 2023-22)
5. **Height Requirement** – Maximum height shall not exceed three (3) stories or forty-five (45) feet, or two stories, measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall.
6. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F).
7. **Accessory Structure Requirements (non-residential, permanent, and portable)**
- a. Front – Prohibited
  - b. Rear – No permanent accessory structures or improvements will be located within seven (7) feet of the rear property line. Further, no permanent accessory structure will be located on an easement or planning right-of-way as shown on the Master Street Plan.  
  
Exceptions: Pools (in-ground and above-ground) – ten (10) feet rear setback; Portable structures - Allowed
  - c. Side – Permanent structures – Prohibited; Portable structures – Allowed.
  - d. Street side – Prohibited

**E. RESIDENTIAL R3-D, Medium-High Density Two-Family Dwelling (Duplex)**

This area is intended for attached two-family dwelling units on a single lot, with a suitable lot area.

- 1. **Permitted uses:** See Section 4.14 Schedule of uses.
- 2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a Conditional Use Permit in each case:
  - a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.

b. Places of Public Assembly

Height – maximum height shall not exceed forty (40) feet for that portion of the structure used for assembly or offices, measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).

3. **Area requirements R3-D**

a. Minimum lot area: 8,000 sq. ft.

b. Minimum lot width (front building line): 80 ft.

4. **Setback requirements R3-D**

a. Front – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.

b. Rear - Minimum twenty (20) feet from rear lot line, access easement, or planning right-of-way as shown on the Master Street Plan.

c. Side (each) – Minimum seven (7) feet from the side property line.

d. Street side – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.

5. **Height Requirement** – Maximum height shall not exceed thirty-five (35) feet, or two stories, measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall.

6. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F).

7. **Accessory Structures Requirements (non-residential, permanent, and portable)**

a. Front – Prohibited

- b. Rear – No permanent accessory structures or improvements will be located within seven (7) feet of the rear property line. Further, no permanent accessory structure will be located on an easement or planning right-of-way as shown on the Master Street Plan.

Exceptions: Pools (in-ground and above-ground) – ten (10) feet.  
Portable structures - Allowed

- c. Side – Permanent structures – Prohibited; Portable structures - Allowed
- d. Street side – Prohibited

**8. Design Standards R3-D – See Section 14.04.05(A)**

**F. RESIDENTIAL R3-MF, Medium-High Density Multi-Family**

This area is intended for one structure on a single lot that consists of 3 to 4 attached dwelling units arranged side-by-side and/or stacked, typically with a shared entry from the street.

- 1. **Permitted uses:** See Section 4.14 Schedule of uses.
- 2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a Conditional Use Permit in each case:
  - a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.
  - b. Places of Public Assembly

Height – maximum height shall not exceed forty (40) feet for that portion of the structure used for assembly or offices, measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

- c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).

**3. Area requirements R3-MF**

a. Minimum lot area: 10,000 sq. ft. for three (3) dwelling units and 12,000 sq. ft. for four (4) dwelling unit.

b. Minimum lot width (front building line): 80 ft.

**4. Setback requirements R3-MF**

a. Front – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.

b. Rear - Minimum twenty (20) feet from rear lot line, access easement, or the planning right-of-way as shown on the Master Street Plan.

c. Side (each) – Minimum ten (10) feet from the side property line.

d. Street side – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.

**5. Height Requirement R3-MF**– Maximum height shall not exceed thirty-five (35) feet, or two stories, measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall.

**6. Maximum Building Coverage** –50 percent.

**7. Off-street parking** – Refer to Chapter 4, Section 04.05 (F).

**8. Accessory Structures Requirements (non-residential, permanent, and portable)**

a. Portable structures are prohibited within all setbacks without Planning Commission approval.

b. Front – Prohibited

c. Rear – No accessory structures or improvements will be located within ten (10) feet of the rear property line. Further, no accessory structure or improvements will be located on an easement or planning right-of-way as shown on the Master Street Plan.

d. Side – Prohibited

e. Street side – Prohibited

**9. Design Standards R3-MF – See Section 14.04.04 (H)**

## **G. RESIDENTIAL R4-MF, High Density Multi-Family**

This area is intended for multi-family structures on a single lot or in a single development, with a suitable lot area and a maximum density of 18 units per acre. Additional density may be considered via the PUD process (Sec. 14.04.12)

1. **Permitted uses:** See Section 4.14 Schedule of uses.
2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a Conditional Use Permit in each case:

- a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.

- b. Places of Public Assembly

Height – Maximum height shall not exceed forty-five (45) feet for that portion of the structure used for assembly or offices measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

- c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).

### **3. Area requirements R4-MF**

- a. Minimum lot area: Residential – lot area ratio equal to 18 units/acre
- b. Minimum lot width (front building line): 100 ft.

4. **Setback requirements R4-MF**

| <b>SETBACKS FOR 1 and 2 Story Structures**</b>  |                  |                 |
|---|------------------|-----------------|
|   | <b>2-4 units</b> | <b>5+ units</b> |
| Front Setback (Measured from MSP ROW)   | 25'              | 35'             |
| Side Setback  | 10'              | 20'             |
| Street Side Setback (Measured from MSP ROW)   | 25'              | 35'             |
| Rear Setback  | 25'              | 35'             |
| Setbacks for Assembly Structures (all sides).<br>All Street side setbacks shall be measured from<br>the MSP ROW | 35'              | 35'             |
| <b>SETBACKS for 3 Story Structures**</b>  |                  |                 |
|   | <b>2-4 units</b> | <b>5+ units</b> |
| Front Setback (Measured from MSP ROW)   | 25'              | 45'             |
| Side Setback  | 15'              | 30'             |
| Street Side Setback (Measured from MSP ROW)   | 25'              | 45'             |
| Rear Setback  | 30'              | 45'             |

\*\* Fire Code may require greater setback distances or fewer allowable stories. Setbacks for development in R4-MF may vary when adjacent to "Triggering Property" as defined by City Ordinance. "Triggering Properties" include Properties zoned SF exclusive Zones as well as property occupied by a single-family dwelling unit that is a use permitted by right in the zoning district in which it is located.. (Ord 2023-22)

5. **Minimum Distance Between Buildings** – Ten (10) feet

6. **Height Requirement R4-MF**

- a. Maximum height shall not exceed forty-five (45) feet, measured as the vertical distance from the highest adjacent ground elevation to the highest point of the roofline or parapet wall.
- b. Additional height or stories may be considered via the PUD process (Sec. 14.04.12). The Fire Official will determine if adequate fire equipment is available when determining the maximum height or number of stories allowed.
- c. **Accessory structures:** 16 feet

7. **Maximum Building Coverage R4-MF**– 50 percent

8. **Off-street parking** – 1.5 spaces for each dwelling unit.

9. **Screening Requirement** – Whenever any development in an R4-MF district is located adjacent to another zoning district or a nonresidential use in an R4-MF district is located adjacent to a residential use in an R4-MF district, screening shall be provided per the Residential Compatibility Standards.

10. **Open Space:** The following shall be provided and maintained:

- a. A landscaped buffer, not less than ten feet wide, along all property lines, and including a six-foot (height) opaque screen along all abutting residential properties of lower density; and
- b. All open space shall include lawn, shrubs, or trees, without structure or pavement, covering a minimum of 25 percent of the total surface area of the lot or development of which 15 percent shall be visible from the front or sides of the lot as seen from the public right-of-way.

11. **Accessory Structures Requirements (non-residential, permanent, and portable)**

- a. Portable structures are prohibited without Planning Commission approval.
- b. Front – Prohibited
- c. Rear – No accessory structures or improvements will be located within ten (10) feet of the rear property line. Further, no accessory structure or improvements will be located on an easement or planning right-of-way as shown on the Master Street Plan.

Exception: Pools – Thirty (30) feet minimum setback; pool decking area – ten (10) feet minimum setback; may be subject to a greater setback due to Residential Compatibility Standards if adjacent to a triggering property.

- d. Side – Prohibited
- e. Street side – Prohibited

12. **Design Standards R4-MF– See Section 14.04.05 (A)**

#### **H. RESIDENTIAL MODULAR HOUSES R-MH**

The Residential Modular Houses district is intended to provide for affordable family housing in modular houses in order to encourage a full range of housing opportunity.

1. **Permitted uses:** See Section 4.14 Schedule of uses. In addition, the following uses and their accessory uses are permitted on each lot: single-family modular houses and accessory uses including private garages, storage facilities, children’s playhouses, and green houses.
2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses.
3. **Area requirements – Residential modular houses R-MH**
  - a. Minimum lot area – Modular houses....6,000 sq. ft.
  - b. Minimum lot area per dwelling unit – Modular houses....6,000 sq. ft.
  - c. Minimum lot width – Modular houses....60 Ft.
4. **Setback requirements R-MH**
  - a. Front – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.
  - b. Rear - Minimum twenty-five (25) feet from rear lot line or center of alley if one exists or from the planning right-of-way as shown on the Master Street Plan.
  - c. Side (each) – Minimum seven (7) feet from each property line.
  - d. Street side – Same as front.
5. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F).  
(Ord. No. 97-8, Sec. 4.06.)

**I. RESIDENTIAL ESTATES R-E**

This zoning district is intended to provide for and protect the rural residential environment. It is established for areas particularly suited for rural residential uses on larger lots in conjunction with the raising of crops and animals and other related activities.

1. **Permitted uses** – See Section 4.14 Schedule of uses. In addition, the following uses and their accessory uses are permitted on each lot:
  - a. One single-family dwelling, provided such dwelling shall be on its own lot or parcel of land including all required setbacks.
  - b. Accessory uses, building, and structures if they are clearly incidental to a permitted use and when placed upon the same lot or parcel with a permitted use, and when located thirty (30) feet or more from the right-of-way of any public streets, road, or highway.

- c. Farming, including all types of agriculture and horticulture such as flower, fruit, and vegetable gardening, field crops, vineyards and orchards, may be permitted in conjunction with a residential dwelling if such farming is for the use of the family residing on the lot or parcel as an incidental use thereto and not for commercial purposes.
- d. Small livestock farming involving the keeping of no more than one head per acre of cows, horses, sheep, goats, pigs, ostriches, emus or similar animals, provided they are properly fenced in or otherwise confined, may be permitted in conjunction with a residential dwelling if such small livestock farming is for the use of the family residing on the lot or parcel as an incidental use thereto and not for commercial purposes.
- e. Stables, barnyards and corrals may be permitted in conjunction with a residential dwelling if such stables, barnyards, and corrals are for the use of the family residing on the lot or parcel as an incidental use thereto and not for commercial purposes.
- f. Arboretum, fish and game management facilities, forest products (growing and harvesting), municipal facilities/utilities, parkways, and open water reservoirs (farm pond) may be permitted in conjunction with a residential dwelling if such is for the use of the family residing on the lot or parcel as an incidental use thereto and not for commercial purposes.

2. **Uses on appeal to the Planning Commission:** See Section 4.14 Schedule of uses. In addition, the following uses may be permitted subject to securing a conditional use permit in each case:

- a. Public schools, churches, religious educational buildings, municipal recreation uses, public utilities and structures, and other uses as deemed appropriate by the Planning Commission.
- b. Area requirements – R-E - places of public assembly

Height – maximum height shall not exceed thirty-five (35) feet for that portion of the structure used for assembly or offices.

Setback requirement – Minimum of thirty-five (35) feet from all property lines. On property abutting a street, thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

- c. Off-street parking – Refer to Chapter 4, Section 04.05 (F).

3. **Area requirements – Residential Estates R-E**

- a. Minimum lot area – Single-family ....108,900 sq. ft. (2 ½ acres)
- b. Minimum lot width (front building line) – Single family....120 Ft.

**4. Setback requirements R-E**

- a. Front – Minimum thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.
- b. Rear – with the principal structure being twenty-five (25) feet from the rear lot line - Minimum twenty-five (25) feet from rear lot line or center of alley if one exists or from the planning right-of-way as shown on the Master Street Plan.
- c. Side (each) – Minimum fifteen (15) feet from each property line.
- d. Street side – Minimum thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

**5. Off-street parking** – Refer to Chapter 4, Section 04.05 (F).

**6. Area requirements – R-E - accessory structures and improvements**

- a. Front – Prohibited
- b. Rear – No accessory structures or improvements will be located within seven (7) feet of the rear property line, further, no accessory structure or improvements will be located on an easement of planning right-of-way as shown on the Master Street Plan.
- c. Side – Allowed
- d. Street side – Prohibited  
(Ord. No. 97-8, Sec. 4.07)

**J. RESIDENTIAL TOWNHOUSE TWO (RTH-2)**

This area is intended for residential neighborhoods with suitable area for two single-family attached units, sharing a zero-lot line, with each unit on their individual lot.

**1. Area requirements**

- a. Maximum Density: 7 units per acre
- b. Minimum lot area: 4,000 sq ft
- c. Minimum lot width at lot frontage: 40 feet

**2. Setback requirements**

- a. Minimum depth of front setback: 25 feet
- b. Minimum depth of rear setback:
  - i. Front loaded: 20 feet
  - ii. Rear loaded: 5’ from property line *or* 5’ from edge of alley ROW/Access Easement
    - 1) Minimum alley or access easement width: 20’ pavement width
    - 2) Street parking or designated parking area must be provided
    - 3) 2 vehicle covered parking

- c. Minimum width of side setback:
  - Interior Side: 0 feet
  - Exterior Side: 7 feet at outside of structure
  - Street Side: 25 feet from intersecting side street

**Area/Setback Table: (Minimum)**

| DESIGN       | SETBACK (FT.) |      |          |          |             | PER DWELLING UNIT |           |
|--------------|---------------|------|----------|----------|-------------|-------------------|-----------|
|              | FRONT         | REAR | SIDE     |          |             | LOT AREA          | LOT WIDTH |
|              |               |      | INTERIOR | EXTERIOR | STREET SIDE | SQ. FT.           | FT.       |
| Front Loaded | 25            | 20   | 0        | 7        | 25          | 4000              | 40        |
| Rear Loaded  | 25            | 5    | 0        | 7        | 25          | 4000              | 40        |

- 3. **Maximum Block Length** – 660 feet for Internal Local Streets
  - a. **Alternative Maximum Block Length** – The lesser of 20 units or 660 feet unless approved by City Staff. City Staff can administratively approve up to 25% additional length, being up to 825 feet. Anything more than 825 feet requires Planning Commission approval.
- 4. **Building group**
  - a. Maximum width of building group: Limited to 2 attached units, with each on their own lot.
- 5. **Maximum Building Coverage**
  - a. Maximum coverage as a percentage of lot area: 50 percent
- 6. **Accessory buildings**
  - a. **Maximum number of accessory buildings** - One per dwelling unit
  - b. **Accessory Building Setbacks-**
    - i. Front – Prohibited
    - ii. Rear – No accessory structures or improvements will be located within seven (7) feet of the rear property line, further, no accessory structure or improvements will be located on an easement or planning right-of-way as shown on the Master Street Plan.  
Exceptions: Pools (in-ground and above-ground) – ten (10) feet rear setback; Portable structures - Allowed
    - iii. Side – Allowed
    - iv. Street side – Prohibited
- 7. **Maximum height of structures**
  - a. 35 feet or 3 stories, whichever is less;

- b. Public, semi-public or public service buildings, hospitals, institutions, or schools may not exceed a height of 60 feet. Places of worship may be up to 75 feet if, for each foot of height above 60 feet, the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

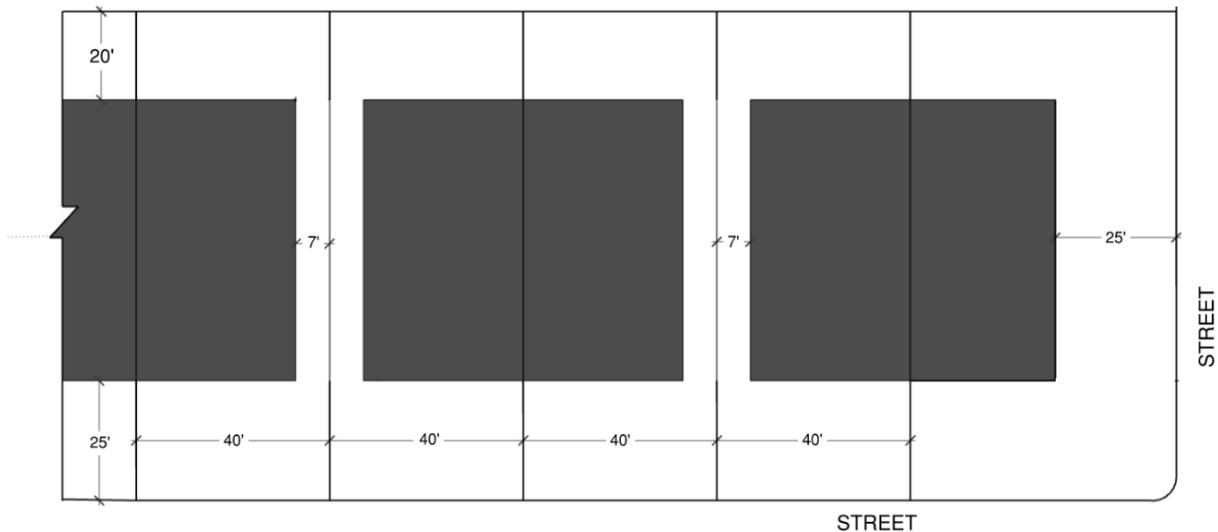
**8. Special Provisions- Fire Suppression**

- a. Townhouses in RTH-2 must be sprinkled and comply with Chapter 11.36 of the Centerton Municipal Code

**9. Parking Regulations**

- a. Residential Townhouse Two (RTH-2) district lots shall provide a minimum of two (2) vehicle covered parking spaces per dwelling unit, with a driveway connecting the parking spaces to a street or alley, and meet all pertinent requirements in Section 14.04.05 (F), Off-Street Parking, or in the currently effective Building Code.

RTH-2 EXHIBIT, *Front-loaded*  
Maximum block length: 660'



**K. RESIDENTIAL TOWNHOUSE FIVE – (RTH-5)**

This area is intended for 3-5 single-family attached dwellings which share a zero-lot line, with each dwelling on its own individual lot.

**1. Area requirements -**

- a. Maximum Density: 9 units per acre
- b. Minimum lot area: 3,000 square feet
- c. Minimum lot width at lot frontage: 30'

**2. Setback requirements -**

- a. Minimum depth of front setback: 25 feet
- b. Minimum depth of rear setback:
  - i. Front loaded: 20 feet
  - ii. Rear loaded: 5 feet from property line or 5 feet from edge of alley ROW/Access Easement
    - 1) Minimum alley or access easement of 20 feet pavement width
    - 2) Street parking or designated parking area must be provided
    - 3) Two vehicle covered parking
- c. Minimum width of side setback:
  - Interior Lot: 0 feet
  - Exterior Lot: 10 feet at outside of structure
  - Street Side: 25 feet from intersecting side street

**Area/Setback Table: RTH-5 (Minimum)**

| DESIGN       | SETBACK (FT.) |      |          |          |             | PER DWELLING UNIT |           |
|--------------|---------------|------|----------|----------|-------------|-------------------|-----------|
|              | FRONT         | REAR | SIDE     |          |             | LOT AREA          | LOT WIDTH |
|              |               |      | INTERIOR | EXTERIOR | Street Side | SQ. FT.           | FT.       |
| Front Loaded | 25            | 20   | 0        | 10       | 25          | 3000              | 30        |
| Rear Loaded  | 25            | 5    | 0        | 10       | 25          | 3000              | 30        |

- 3. **Maximum Block Length** – 660 feet for Internal Local Streets
  - a. **Alternative Maximum Block Length** – The lesser of 20 units or 660 feet unless approved by City Staff. City Staff can administratively approve up to 25% additional length, being up to 825 feet. Anything more than 825 feet requires Planning Commission approval.
- 4. **Building group**
  - a. Maximum width of building group: Limited to five (5) attached units, with each being on their own lot.
- 5. **Maximum Building Coverage**
  - a. Maximum coverage as a percentage of lot area: 55 percent
- 6. **Accessory buildings**
  - a. **Maximum number of accessory buildings** - One per dwelling unit

**b. Accessory Building Setbacks-**

- i. Front – Prohibited
- ii. Rear – No accessory structures or improvements will be located within seven (7) feet of the rear property line, further, no accessory structure or improvements will be located on an easement or planning right-of-way as shown on the Master Street Plan.  
Exceptions: Pools (in-ground and above-ground) – ten (10) feet rear setback; Portable structures - Allowed
- iii. Side – Allowed
- iv. Street side – Prohibited

**7. Maximum height of structures**

- a. 35 feet or 3 stories, whichever is less;
- b. Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Places of worship may not exceed 75 feet, if the building is set back from each yard line at least 1 foot for each 2 feet additional height above the height limit in this district.

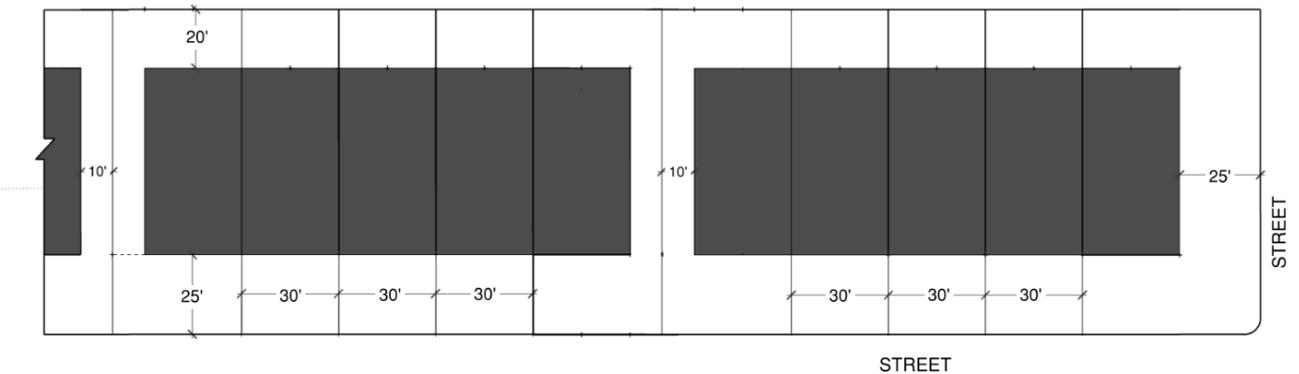
**3. Special Provisions- Fire Suppression**

- a. Townhouses in RTH-5 must be sprinkled and comply with Chapter 11.36 of the Centerton Municipal Code.

**4. Parking Regulations**

- a. Residential Townhouse Five (RTH-5) District lots provide a minimum of two vehicle covered parking spaces per dwelling unit, with a driveway connecting the parking spaces to a street or alley, and meet all pertinent requirements contained in Section 14.04.05 (F), Off-Street Parking, or in the currently effective Building Code

RTH-5 EXHIBIT, *Front-loaded*  
Maximum block length: 660'



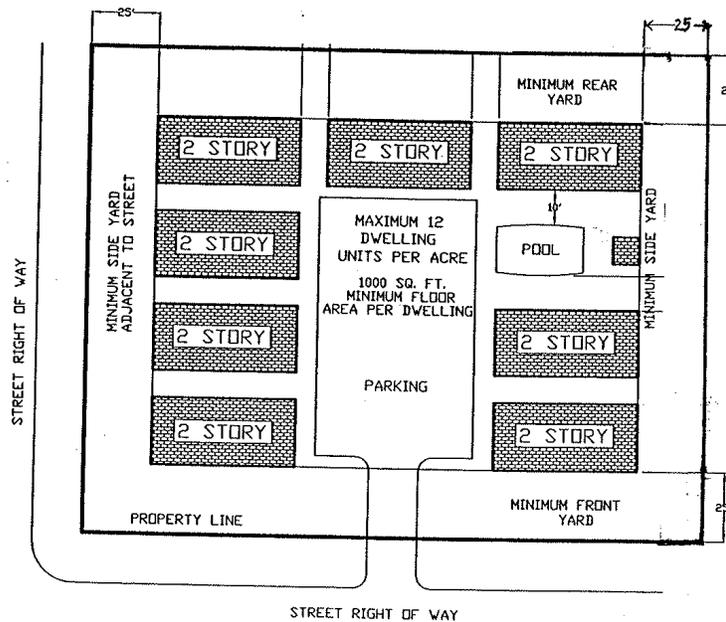
**L. RESIDENTIAL CONDOMINIUM (R-C)**

This area is intended for single dwelling units contained in multi-unit dwellings or structures.

**1. Area requirements Residential Condominium (R-C)**

- a. Condominium zoning shall be for property ownership of a portion of a building, with ownership in common of all land and for portions of a building not part of a specific ownership.
- b. Condominium buildings and lots held in common shall comply with the provisions of one of the following zones:
  - i. Duplex style condominiums. These shall have only two units per building and shall comply with the applicable portions of Residential Townhouse Two RTH-2 zoning. The minimum dwelling unit size shall be 1,200 sq. ft. excluding areas owned in common.
  - ii. Townhouse style condominiums. These shall have up to five units per building and shall comply with the applicable portions of the Residential Multi-Family RTH-5 zoning. The minimum dwelling unit size shall be 1,000 sq. ft., excluding areas owned in common.
  - iii. Apartment style condominium. These shall have up to 12 units per acre in buildings of various sizes, and shall comply with the following sketch.

**RESIDENTIAL CONDOMINIUMS (R-C) EXHIBIT**



**M. CENTRAL BUSINESS DISTRICT C-1**

The Central Business District represents an area of intensive commercial uses including retail stores, banks, offices, and the like. It is the retail core of the city. Due to the permanency of the existing structures, and the nature of this district, structures, may, subject to Planning Commission approval, be built to the front and in most cases, side property lines.

1. **Permitted uses** – See Section 4.14 Schedule of uses.

Note: Service stations shall have underground tanks; pumps shall be twenty (20) feet from the property line; there shall be a minimum frontage of one hundred (100) feet.

2. **Uses on appeal to the Planning Commission** – See Section 4.14 Schedule of uses.

3. **Setback requirements C-1** – Setbacks should be compatible with existing structures and the character of the area.

- a. Front – Minimum fifty (50) feet from the planning right-of-way as shown on the Master Street Plan.
- b. Side – Ten (10) feet from property lines.
- c. Street side – Ten (10) feet from the planning right-of-way as shown on the Master Street Plan.
- d. Rear – Minimum of twenty-five (25) feet from property line or center of alley where one exists.

4. **Loading and unloading**

Loading and unloading facilities shall be provided so as not to block any public way.

5. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F). (Ord. No. 97-8, Sec. 4.08.)

**N. HIGHWAY COMMERCIAL C-2**

The Highway Commercial District is intended for those businesses which cater to the highway traffic, such as service stations, drive-in restaurants, motels, supermarkets, and similar businesses.

1. **Permitted uses** – See Section 4.14 Schedule of uses.

Note: Service stations shall have underground tanks; pumps shall be twenty (20) feet from the property line; there shall be a minimum frontage of one hundred (100) feet.

2. **Uses on appeal to the Planning Commission** – See Section 4.14 Schedule of uses.
3. **Setback requirements C-2**
  - a. Front – Minimum fifty (50) feet from the planning right-of-way as shown on the Master Street Plan.
  - b. Side – Ten (10) feet from property lines.
  - c. Street side – Ten (10) feet from the planning right-of-way as shown on the Master Street Plan.
  - d. Rear – Minimum of twenty-five (25) feet from property line or center of alley if one exists.
4. **Loading and unloading** – Loading and unloading facilities shall be provided so as not to block any public way.
5. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F). (Ord. No. 97-8, Sec. 4.09.)

**O. NEIGHBORHOOD COMMERCIAL C-3**

This zone is primarily for convenience shopping and services, such as grocery stores, barber and beauty shops, laundromats, drugstores, taverns, professional offices and similar uses. They provide convenient shopping for the surrounding area.

1. **Permitted uses** – See Section 4.14 Schedule of uses.

Note: Convenience shopping establishments with gasoline pumps shall have underground tanks.
2. **Uses on appeal to the Planning Commission** – See Section 4.14 Schedule of uses.
3. **Setback requirements C-3**
  - a. Front – Minimum twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan.
  - b. Side – Ten (10) feet from property lines.

- c. Street side – Ten (10) feet from the planning right-of-way as shown on the Master Street Plan.
- d. Rear – Minimum of twenty-five (25) feet from property line or center of alley where one exists.

**4. Off-Street loading and unloading**

Loading and unloading facilities shall be provided so as not to block any public way.

**5. Off-street parking** – Refer to Chapter 4, Section 04.05 (F).  
(Ord. No. 97-8, Sec. 4.08.)

**P. LIGHT INDUSTRIAL I-1**

- 1. **Permitted uses** – See Section 4.14 Schedule of uses.
- 2. **Uses on appeal to the Planning Commission** – See Section 4.14 Schedule of uses.
- 3. **Residential use prohibited**

No structure may be constructed or altered for residential use.

**4. Setback requirements I-1**

All structures shall be built a minimum of twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan and twenty-five (25) feet from the side and rear property lines.

**5. Height requirements I-1**

- a. Maximum height of a structure shall not exceed thirty-five (35) feet.
- b. The Board of Adjustment may waive the height requirements when it is demonstrated that the equipment and the structure to house the operation requires greater height.

**6. Other requirements I-1**

- a. The maximum lot size for I-1 is five (5) acres.
- b. All activities must be carried on within buildings, with no outside storage of raw materials.

- c. Shall employ a maximum of thirty (30) people.
- d. Shall have a maximum of one hundred (100) vehicle trips per peak hours.
- e. Shall have no discernable odor or vibration beyond the building walls.
- f. Shall have no discernable noise beyond the lot lines.
- g. A continuous visual buffer, such as landscaping, berms, fencing, walls, etc. shall be located no less than ten (10) feet from the lot lines.
- h. No toxic gases or chemicals shall be used or produced.
- i. Any business or industry that cannot meet the above stated requirements must appeal to the Planning Commission for a condition Use Permit.

7. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F).

8. **Off-street loading and unloading facilities**

Each structure or use shall provide off-street loading and unloading facilities which will not block a street, alley, or public way.

(Ord. No. 97-8, Sec. 4.11)

**Q. HEAVY INDUSTRIAL I-2**

- 1. **Permitted uses** – See Section 4.14 Schedule of uses.
- 2. **Uses on appeal to the Planning Commission** – See Section 4.14 Schedule of uses.
- 3. **Residential use prohibited**

No structure may be constructed or altered for residential use.

4. **Setback requirements I-2**

All structures shall be built a minimum of twenty-five (25) feet from the planning right-of-way as shown on the Master Street Plan and twenty-five (25) feet from the side and rear property lines.

5. **Height requirements I-2**

- a. Maximum height of a structure shall not exceed thirty –five (35) feet.
- b. The Board of Adjustment may waive the height requirements when it is demonstrated that the equipment and the structure to house the operation requires greater height.

**6. Other requirements I-2**

- a. The minimum lot size shall be five (5) acres.
- b. Shall employ a maximum of ninety (99) people. Uses which employ more than one hundred (100) people must apply to the Planning Commission for a Condition Use Permit.
- c. Shall have a maximum of three hundred (300) vehicle trips per peak hour.
- d. Shall have no discernable odor, vibration or noise beyond the lot lines.
- e. A continuous visual buffer, such as landscaping, berms, fencing, walls, etc. shall be located no less than ten (10) feet from the lot lines.
- f. Any business or industry that cannot meet the above stated requirements must appeal to the Planning Commission for a Conditional Use permit.

**7. Off-street parking** – Refer to Chapter 4, Section 04.05 (F).

**8. Off-street loading and unloading facilities**

Each structure or use shall provide off-street loading and unloading facilities which will not block a street, alley, or public way.

(Ord. No. 97-8, Sec. 4.12)

**R. AGRICULTURAL A-1**

Intended to provide for agricultural activities and to protect flood areas from development.

- 1. **Permitted uses** – See Section 4.14 Schedule of uses.
- 2. **Uses by appeal to the Planning Commission**

The raising of any animals subject to the following conditions:

- a. Anyone wishing to raise hogs, poultry, cattle, sheep rabbits, or goats for a commercial nature shall submit to the Planning Commission a written statement setting forth the nature of the proposed operation. This would include how and where the animals would be housed on the site, the maximum number to be accommodated permanently on the site at any time and any other information the Planning Commission feels necessary in making decisions. The petitioners shall also submit a list of all property owners within one-half (½) mile in all directions of the exterior limits of the property and a signed petition by as many of those property owners as are in favor of the operation.
- b. Anyone wishing to raise any other animal not listed in one (1) above shall submit to the Planning Commission a written statement setting forth the nature of the proposed operation. The statement should include the maximum number of animals to be accommodated at any one time, where and how they are to be housed and the closest off-site residence other than the petitioners or an employee of the petitioners, to the proposed operation.
- c. The Planning Commission, after review of all materials submitted, shall make its decision as to whether the proposed agricultural activity is appropriate in the location intended. The Planning Commission may, as a part of its approval, impose such conditions as it deems necessary to protect the health, safety, morals, and general welfare of surrounding property owners.

### 3. Setback requirements A-1

- a. The minimum area for dwelling and agriculture related buildings shall be ten (10) acres.
- b. The setbacks for dwellings shall be the same as the R-1 – Residential District.
  - i. Front – Minimum thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.
  - ii. Rear, with the principal structure being twenty-five (25) feet from the rear lot line. -Minimum of twenty-five (25) feet from rear lot line or center of alley where one exists or from the planning right-of-way as shown on the Master Street Plan.
  - iii. Side (each)– Minimum fifteen (15) feet from property lines.
  - iv. Street side – Minimum thirty-five (35) feet from the planning right-of-way as shown on the Master Street Plan.

- c. The setback for any structure related to the agricultural activity shall be one hundred (100) feet from the planning right-of-way as shown on the Master Street Plan.

4. **Off-street parking** – Refer to Chapter 4, Section 04.05 (F).  
(Ord. No. 97-8, Sec. 4.13.)

**14.04.05 GENERAL ZONING REGULATIONS AND DESIGN STANDARDS**

**A. DESIGN STANDARDS FOR TWO-FAMILY AND MULTI-FAMILY DEVELOPMENTS**

**1. Two-Family, Three-Family, and Four-Family Structures**



Two-Family (Stacked),  
Missing Middle Housing.com



Two-Family (Side by Side),  
Missing Middle Housing.com



Two-Family (Front loaded with attached garage)

SW Coues Cove Bentonville, AR, google maps image



Two-Family (side by side)

Housing.com



Three-Family (Stacked),  
Missing Middle Housing.com

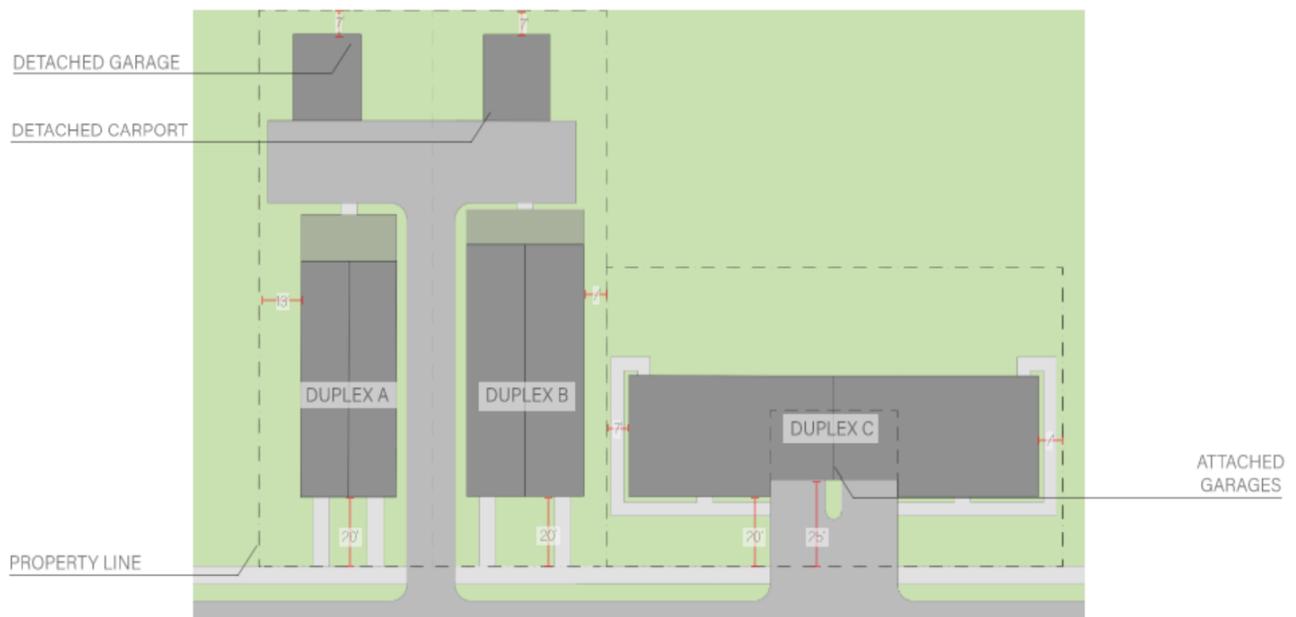


Four-Family (Stacked),  
Missing Middle Housing.com

a. **Building design (Two-, Three- and Four-Family Structures)**

- 1) For all units with a garage or carport, the garage or carport shall be placed behind the front building façade. Garages and carports may be attached or detached.
- 2) Each entry, whether combined or individual unit entries, shall be clearly visible on each building.
- 3) Each building façade shall have articulation; no façades containing only one plane shall be accepted.
- 4) Exterior building materials:

- a) The primary material shall constitute at least 75% of the wall area, excluding glass.
- b) The primary exterior material shall consist of a combination of brick, textured concrete block, stucco, cement-based board or similar masonry product, wood, synthetic stone, or natural stone.
- c) Alternative materials may be proposed for approval by Planning Staff or Building Official unless the material is specifically prohibited in this section.
  - i. to deny any alternative materials if they are found to be in conflict with the intent of this code.
  - ii. No Masonite, asphaltic exterior wall or roof material, aluminum, or steel siding (other than approved architectural metal or composites), non-textured concrete block (ground-faced is allowed), vinyl or other similar materials shall constitute the primary exterior materials.



**b. Site planning.**

- 1) All trash receptacle storage areas shall be screened. If the units are served by individual trash service, the two-family, three-family, or four-family units shall be designed in a manner that provides access to residents to store trash receptacles out of sight.
- 2) Two-family, three-family, and four-family building facades shall be varied. There shall be a minimum of three (3) alternative building facades before a repeat design may be utilized. In no case shall two identical building facades

be placed adjacent to one another. The level of variation in building façade shall be approved by Planning Staff.

- 3) If shared driveways or alleys are proposed with any development, they shall comply with the current fire, building, and planning codes. The width of any shared alley or driveway shall be approved by the City Fire Official, and additional width may be required at the Fire Official's discretion. Any shared private driveways or alley(s) must be maintained by individual owners or a property owners' association.
- 4) For rear or alley loaded units.
  - a) Where rear or alley loaded, garage or carport may extend beyond rear façade.
  - b) If the development is designed for rear trash pickup, additional width and structural requirements may be placed on the rear-loaded shared alleys or shared driveways.
    - i. For **two-family** buildings with front-loaded driveways, garages, or carports, the driveway shall extend at least 25 feet into the property from the Master Street Plan right-of-way to allow parking to occur without encroaching into the right-of-way or obstructing the pedestrian access.
    - ii. For **three and four-family** buildings: A maximum of two drives per building is allowable. Sharing drives between buildings is encouraged. All parking shall be to the side or rear of the structure. The minimum parking areas required for residential units will not be allowed within the public street ROW unless specifically approved by the Planning Commission.

2. **Five-Family and Greater Multi-Family Residential Structures** (five or more attached units):



**Apartments**  
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**Uptown  
Apartments**  
Fayetteville, AR,  
google maps  
image

**a. Building design for Five or More Units:**

**(1) Material.**

- (a) The primary material shall constitute at least 75% of all exterior wall areas, excluding glass.
- (b) The primary exterior material shall consist of a combination of brick, textured concrete block, cement-based board, stucco, wood, synthetic stone or natural stone. The remaining exterior material shall be considered building trim.
  - i. Trim is defined as an ornamental design feature, that when removed does not significantly alter the appearance of the building. This commonly consists of moldings, cornices, parapet, frieze, sills, lintels, stringcourse, quoining, and ledgment.
- (c) No Masonite, asphaltic exterior wall or roof material, aluminum, or steel siding (other than approved architectural metal or composite), non-textured concrete block (ground-faced is allowed), vinyl or other similar materials shall constitute a portion of any building except trim.

**(2) Compatibility.**

- (a) All five-family and greater structures shall be designed in a manner compatible with other structures in the surrounding vicinity.
- (b) The exterior building design, including roof style, color, materials, architectural form and detailing, shall be consistent among all buildings in a common development and on all elevations of each building to achieve design harmony and continuity within itself.

**(3) Scale and bulk.**

- (a) The height and scale of new buildings shall be consistent or compatible with the height and scale of adjacent buildings.
- (b) Special care, however, shall be taken to achieve the compatibility of larger buildings next to small scale buildings; techniques shall include:
  - i. Limiting building size.
  - ii. Creating shadow patterns for depth.
  - iii. Using building articulation to:
    - i) Create a variety of scale relationships.
    - ii) Create the appearance or feeling of a residential scale.
    - iii) Constructing buildings that are sympathetic to a structure on an adjoining property.
  - iv. Using a design technique or element that:
    - i) Creates a human scale appropriate for a residential use.
    - ii) Prevents the construction of a structure in close proximity to a single-family residence zoning district that is significantly more substantial than a structure in a single-family residence zoning district.
    - iii) Allowing the construction of a structure, including a multi-family structure, that exhibits a human scale and massing that is appropriate for a residential use.
  - v. The scale of the building shall also consider building setback, lot size and relationship to street width.

**(4) Wall articulation.**

- (a) Buildings shall avoid long uninterrupted façade planes and/or blank walls.
- (b) All non-single-family buildings with facades greater than 35 feet in length shall incorporate wall plane projections or recesses that are at least two feet in depth.
- (c) At least 25% of the length of the facade must be cumulatively composed of either projections or recesses. No uninterrupted length of a façade may exceed 35 feet in length.

**(5) Facades.**

- (a) All multi-family structures shall be architecturally finished on all sides with materials of a similar grade.

(6) **Roofs.**

- (a) Roof lines and/or parapets shall be varied with a change in height every 100 linear feet in the building length.
- (b) Parapets, gable roofs, high roofs, or dormers shall be used to conceal flat roofs and rooftop equipment from public view.
- (c) Alternative lengths and designs may be acceptable and may be approved by Planning Commission.

(7) **Entrances.**

- (a) Each primary building on a site, regardless of size, shall have clearly defined, highly visible entrances featuring no less than two of the following:

- i. Canopies or porticos;
- ii. Overhangs;
- iii. Recesses/projections;
- iv. Arcades;
- v. Raised corniced parapets over the door;
- vi. Peaked roof forms;
- vii. Arches;
- viii. Architectural detail such as tile work and moldings integrated into the building structure and design;
- ix. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting; or
- x. Other architectural features approved by Planning Commission.

(8) **Architectural details.**

- (a) All buildings shall be designed to incorporate no less than three of the architectural elements from the list below, in addition to regulations regarding the design of entrances above.

- (b) Buildings over 50,000 square feet shall include a minimum of five of the referenced architectural elements. Buildings over 100,000 square feet shall include a minimum of six of the referenced architectural elements.

- i. Canopies, awnings, or porticos;
- ii. Recesses/projections;
- iii. Arcades;
- i. Peaked roof forms;
- ii. Arches;
- iii. Display windows;
- iv. Accent materials (minimum of 15% of exterior façade);

- v. Architectural details (such as tile work and moldings) integrated into the building façade;
- vi. Articulated cornice line;
- vii. Articulated ground floor levels or base;
- viii. Varied roof heights; or
- ix. Other architectural features approved by Planning Commission.

(9) **Utility and mechanical equipment screening**

- (a) Screening of service yards, banks of utility meters and hardware, mechanical equipment, outdoor storage areas, and/or other potentially unattractive places from public view, shall be accomplished by the use of walls, fencing, planting, or a combination of the measures that follow.
  - i. Adjusting the architectural or landscape profile to screen those elements from view.
  - ii. Placing those elements on service courts or other locations not generally visible to residents or viewed by the public.
  - iii. Integrating those elements into the architecture or landscaping of the site.
- (b) Screening shall be equally effective in the winter and the summer seasons.
- (c) For rooftop equipment, parapet walls or other screening methods approved by Planning Commission, are required along street frontages and bordering residential areas.

(10) The **degree of visibility and screening** of service yards, utility meters and hardware, mechanical equipment, refuse areas, and/or other potentially unattractive places shall be evaluated using the following criteria:

- (a) The degree of visibility from all adjacent public ways;
- (b) The architectural compatibility of the design and color of the yards, meters and equipment of the building;
- (c) Possible visibility from future public ways;
- (d) Internal overall appearance in relation to the site; and
- (e) If adjacent to and visible from single family residential uses, single family residential zoning categories, or other marginally compatible uses.

**b. Site planning for Five or More Units**

**(1) Building placement.**

- (a) Place as much of the building width at the front of the lot as possible to maximize front façade exposure to the public.
- (b) The front façade shall generally be kept parallel with the street.
- (c) On corner lots, place as much building mass near the intersection as possible to help anchor the lot and take advantage of high visibility.

**(2) Parking placement.**

- (a) Five-Family multifamily units and greater
  - i. Parking areas shall generally be kept to the interior of the site or sides of the buildings with the building façade along the street. Exceptions may be granted by the Planning Commission if the parking lots are screened from view by additional landscape buffering.
  - ii. If a private interior street is required for connectivity, parking may be placed along this street, but must be clearly defined by landscaped curb bump outs between buildings, or every ten (10) parking spaces.

**(3) Pedestrian circulation.**

- (a) Clearly defined pedestrian walkways or paths shall be provided from parking areas to primary building entrances.
- (b) Walkways shall be designed so that pedestrians have to cross parking aisles and landscape islands no more than necessary to reach building entries.
- (c) All internal walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as colored concrete, pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
  - i. Painted crosswalks shall not be considered sufficient definition of the pedestrian path from the driving surface.

**(4) Dumpster Enclosures and Refuse Areas**

- (a) Any dumpster or refuse areas must be screened completely from view and consist of a masonry enclosure and access gate made of opaque material.
  - i. The design of the masonry enclosure shall include design/construction measures to assure that the sizing of the enclosure is adequate to accommodate the housing and servicing of the desired refuse container without damage of the enclosure.
  - ii. Any damage to the dumpster or refuse area enclosures must be repaired within 30 days
  - iii. All refuse must be contained within the enclosure area
- (b) Any dumpster or refuse area shall be located no closer than five feet (5') from the fascia of any adjacent structure.

**c. Amenities**

- (1) All multi-family developments with over 40 proposed or potential units (within the development) shall provide at least one of the following amenities:
  - (a) Pool - sized appropriately. To be reviewed by Planning Staff and approved by the Planning Commission;
  - (b) Club house;
  - (c) Private park with at least one substantial piece of children's playground equipment, park benches, and landscaping sized appropriately. To be reviewed by Planning Staff and approved by the Planning Commission;
  - (d) Splash pad park;
  - (e) Dog park with appropriate facilities;
  - (f) Sports facility. Can included bocce court, volleyball court, basketball court, tennis court, soccer field, disk golf course, or other facility approved by the Planning Commission;
  - (g) Hiking or biking trails; and/or
  - (h) An alternative amenity approved by the Planning Commission.
- (2) All multi-family developments with over 100 units shall provide at least two amenities. All multi-family developments with over 200 units shall provide at least three amenities. For every 150 units over 200, an additional amenity shall be required.
- (3) These amenities shall be accessible to all residents, centrally located if possible, and accessible by internal walkways.
- (4) All amenities shall be maintained by the apartment complex manager and/or owner.

## **B. MODULAR HOUSES**

1. Generally – All modular house units shall meet the following criteria:
  - a. be occupied only as residence;
  - b. be subject to all applicable provisions of the zoning ordinance, including having the land on which it is placed zoned R-MH;
  - c. be constructed of two (2) or more sections;
  - d. be placed on permanent foundations, on footings, on piers, or on blocks in accordance with Arkansas State requirements or manufacturer recommendations, whichever are more stringent. Both the foundation system and connection of the manufactured home to the foundation system shall be capable of withstanding the design loads and concentrated loads identified in the installation instructions prescribed by the manufacturer;
  - e. have a skirt at the perimeter of the unit composed of concrete or masonry material;
  - f. be covered with a non-reflective exterior material customarily used on site-built dwelling, such as board siding, plywood siding, brick, or stucco; exterior brick or stucco material shall extend to the ground; other covering material need not extend below the top of the foundation and shall not be closer than eight inches to the ground;
  - g. have a pitched or peaked roof of two and one-half inches (2 ½ ) per foot, have a minimum roof overhang of twelve inches (12), and covered with a non-flammable roof material used on site-built dwellings;
  - h. be anchored to the ground in accordance with the manufacturers' specifications;
  - i. have wheels axles and hitch mechanisms removed;
  - j. have all pertinent utilities connected in accordance with the manufacturers' specifications and city ordinances.
2. Subdivisions – Any modular house subdivision to be placed in Centerton shall be subject to the review and approval of the Planning Commission.
  - a. Anyone desiring to develop a modular house subdivision in Centerton shall file with the Planning Commission an application requesting the commission's review and approval. The applicant shall provide the

Commission with the following information at the time of filing the application:

- i. Legal description, ownership, and general location of property;
  - ii. Sketch showing lot dimensions, number of modular house units to be placed, setbacks from exterior property lines, type and location of proposed utilities, location of existing improvements above and below the ground, proposed access, street right-of-way and any additional information the Commission might request concerning the property; and
  - iii. A list with addresses of abutting property owners, whether or not a street separates the property.
- b. The Planning Commission shall require the developer, by certified mail, notification of abutting property owners by mail of the request and at the next regular meeting unless the matter is continued for some reason, shall approve with or without conditions or deny with reasons, the request.
  - c. The same procedure as used in zoning matters, shall be used for considering the request.
  - d. Any decision of the Planning Commission may be appealed to the City Council (as provided in Chapter 8, Sec. 8.02)
  - e. A request once denied shall not be reconsidered for a period of twelve (12) months from the date of denial unless the Planning Commission finds substantial reason exists for waiving this limitation. (Ord. No. 97-8, Sec. 5.01.)

### **C. ANNEXED AREA**

Territory annexed to the city after adoption of this ordinance shall be given the Agricultural Use District designation until such time as an amendment to the text of this ordinance is requested as per Chapter 8, Section 8.01 and/or 8.02, unless the City Council approves a designation of a district other than Agricultural in the ordinance accepting the annexed area, providing that such district is in accordance with the City Comprehensive Plan. (Ord. No. 97-8, Sec. 5.02.)

### **D. COMPLETION OF EXISTING BUILDINGS**

Nothing herein contained shall require any changes in plans, construction or designated use of a building for which a building permit has been issued within thirty (30) days prior

to the adoption of this ordinance, provided construction is started on said building within one hundred twenty (120) days after adoption of this ordinance. (Ord. No. 97-8, Sec. 5.03.)

#### **E. EXISTING LOTS AND LOT AREA**

1. On any lot in a residential use district which is on a plat of record at the time of passage of this ordinance, a one-family structure may be erected even though the lot be of less area or width than required by the regulations of the residential use area in which the lot is located, provided all other area requirements are met.
2. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance. (Ord. No. 97-8, Sec. 5.04)

#### **F. OFF-STREET PARKING**

The following is a list of minimum requirements that are permitted within the terms of this ordinance. This list is to be used by the Enforcement Officer in evaluating each building erected, enlarged, or altered for use, for any of the following purposes:

1. Residential – At least two parking spaces for each dwelling unit.
2. Place of public assembly – At least one parking space for each three persons accommodated in the assembly hall.
3. School
  - a. Kindergarten through 9<sup>th</sup> grade – 1 parking space per 1,200 sq. ft. of floor area.
  - b. 10<sup>th</sup> through 12<sup>th</sup> grade – 1 parking space per 800 sq. ft. of floor area plus 1 parking space per 4 stadium seats.
4. Hospital and nursing home – At least one parking space for each four beds, plus one parking space for each 2 employees.
5. Retail stores providing goods and service, offices, restaurants and taverns – a minimum of one parking space for each 200 sq. ft. of floor space.
6. Warehousing and wholesaling – At least one parking space for each 500 sq. ft. of floor are or for each 2 employees, whichever is greater.
7. Industrial manufacturing – At least one parking space for each 2 employees. (Ord. No. 97-8, Sec. 4.05.)

#### **14.04.06 Non-conforming**

##### **A. INTENT**

1. Within the districts established by this ordinance or amendments that may later be adopted, there exist structures, and use of land and structures which were lawful before this ordinance was passed, but which would be prohibited, regulated, or restricted under the terms of this ordinance.
2. Such uses are declared to be incompatible with permitted uses in the districts involved.
3. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, abandoned, or destroyed.
4. It is the further intent that existing non-conformities shall not be used as the basis for adding elsewhere other structures or uses prohibited in the same district. (Ord. No. 97-8, Sec. 6.01.)

##### **B. NON-CONFORMING USE OF LAND**

Where, at the effective date of this ordinance, a lawful use of land exists that is no longer permissible after the enactment of this ordinance, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions of this section:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. If any such non-conforming use of land ceases for any reason for a period of one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located. (Ord. No. 97-8, Sec. 6.02.)

##### **C. NON-CONFORMING STRUCTURE**

When a lawful structure exists at the effective date of this ordinance that could not be built under the requirements of this ordinance by reason of restrictions on the area, lot coverage, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions of this section:

1. Should such structure be destroyed by any means to an extent in excess of two-thirds of its current appraised value, as determined by the Benton County Assessor's office, immediately prior to damage, it shall not be reconstructed except in conformity with the provisions of this ordinance.

2. Such structure, upon the approval of the Board of Zoning Adjustment, may be added to if said addition meets the area requirements of the zone district in which the structure is located, provided said use of structure is in conformance with this ordinance.
3. No such structure may be enlarged or altered in a way which increases its non-conformity. (Ord. No. 97-8, Sec. 6.03.)

#### **D. NON-CONFORMING USE OF STRUCTURE AND LAND**

If lawful use of a structure, or of structure and land in combination, exists at the effective date of this ordinance, that would not be allowed in the district under the requirements of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions of this section:

1. Any non-conforming use may be extended to any portion of a structure arranged or designed for such non-conforming use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
2. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Zoning Adjustment shall determine that the proposed use is equally appropriate to the district as the existing non-conforming use.
3. Any non-conforming use, once changed to a conforming use, shall thereafter conform to the regulations for the district in which such structure is located, and all new uses shall be conforming uses.
4. When a non-conforming use of a structure, or structure and premises in combination, is destroyed by any means to an extent of more than fifty percent (50%) or discontinued for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. (Ord. No. 97-8, Sec. 6.04.)

#### **E. REPAIRS AND MAINTENANCE**

1. Any building devoted in whole or in part to any non-conforming use may have ordinary repairs, or repair and replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not to exceed ten percent (10%) of the replacement value of the building in any twelve (12) month period, provided that the size of the building is not increased.
2. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any

official charged with protecting the public safety, upon order of such official. (Ord. No. 97-8, Sec. 6.05.)

#### **14.04.07 BOARD OF ZONING ADJUSTMENTS**

##### **A. ORGANIZATION**

1. The Board of Zoning Adjustment, hereinafter referred to as the “Board,” shall consist of the entire membership of the Planning Commission and a quorum thereof shall be necessary in order to act officially on any matter. Appointment to the Planning Commission by the Mayor and City Council shall also be appointment to the Board and for the same time period.
2. Upon appointment and annually thereafter, the Board shall meet, organize and elect its own chairperson who shall serve for one (1) year or until the successor is duly qualified. The chair may appoint a secretary who is not a member of the Board for the purpose of taking minutes at the meetings.
3. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as the original appointments.  
(Ord. No. 97-8, Sec. 7.01.)

##### **B. MEETINGS**

1. Meetings of the Board shall be held at such time and at such place within the city as the Board may designate, and may meet at any time on call of the chair or on request of two (2) members.
2. The Board shall keep minutes of its proceedings which shall contain as a minimum:
  - a. Time, date, and place of meeting.
  - b. Names of members present.
  - c. Citation, by number and description of appeal or application.
  - d. Pertinent facts of the case.
  - e. Names of persons appearing and their interest in the case.
  - f. Record of vote by name.
  - g. Authority for decision (cite ordinance or statute) and reasons for conditions imposed.

3. The minutes of the meeting shall be filed by the secretary of the Board in the office of the City Recorder and shall be public record. (Ord. No. 97-8, Sec. 7.02.)

**C. APPEALS FROM DECISION OF ENFORCEMENT OFFICER** The Board may hear appeals from the decision of the Enforcement Officer in respect to the enforcement and application of these regulations and may affirm or reverse, in whole or part, such decision of the Enforcement Officer. (Ord. No. 97-8, Sec. 7.03.)

**D. VARIANCE**

1. The Board shall hear requests for variances from the stated provisions of the zoning ordinance in instances where strict compliance to the provisions of the ordinance would cause undue hardship due to the circumstances unique to the individual property under consideration.
2. The Board may grant variances only when it is demonstrated that such action will with the spirit and intent of the zoning ordinance.
3. The Board shall not permit as a variance any use in a zone that is not permitted under this ordinance in conformance with Act 186 of 1957 as amended.
4. The Board may impose conditions in the granting of the variance to insure compliance and to protect adjacent property. (Ord. No. 97-8, Sec. 7.04.)

**E. OTHER FUNCTIONS OF THE BOARD** The Board may hear applications and take such action as permitted on matters specifically referred to it under this ordinance. (Ord. No. 97-8, Sec. 7.05)

**F. APPEALS FROM DECISIONS OF THE BOARD** Appeals from the decision of the Board shall be to a court of record within thirty (30) days from the decision of the Board in accordance with Act 186 of 1957 as amended. (Ord. No. 97-8, Sec. 7.06.)

**G. NOTICE AND FEES**

1. Whenever an appeal or application for a variance is made to the Board, the Board shall cause to have published at the expense of the appellant or applicant a notice of the time and place of the public hearing upon such appeal or application which notice shall be published at least once not less than seven (7) days preceding the date of such hearing in an official paper or a paper of general circulation in the city, said notice to designate the particular location with which the appeal or application is concerned, and a brief statement as to what the appeal or application consists of. The Board shall also give or cause to be given such additional notice

of such hearing to interested persons and organizations as it shall deem feasible and practicable.

The appellant or applicant shall be required to pay to the City Recorder fees as established in Section 13.05 of this Code pursuant to the Planning Fee Schedule. Such fees are to cover the cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be approved by the Planning Commission and adopted by the City Council. (Ord. No. 2016-03, Sec. 2.)

#### **14.04.08 AMENDING THE ZONING ORDINANCE**

##### **A. AMENDMENTS BY PUBLIC BODY**

1. The City Council may suggest that the Planning commission propose amendments to the text of this ordinance, or the Planning Commission itself may initiate proposed amendments.
2. Amendment to the text proposed by the Planning Commission shall be advertised in a paper of general circulation at least fifteen (15) days in advance of a public hearing to be conducted by the Planning Commission. After the public hearing, the Planning Commission shall make a report and recommendation to the City Council pertaining to the proposed amendment to the text. The City Council's action on the report and recommendation shall be final.
3. The City Council, upon its own initiative, may amend this ordinance and the official zoning map by a majority vote of the entire City Council. (Ord. No. 2003-8, Sec. 1.)

##### **B. AMENDMENTS BY INDIVIDUAL PROPERTY OWNER**

1. A petition, giving the legal description of the property involved and the zoning classification requested for the property, or indicating the proposed amendment, shall be submitted to the Planning Commission by the property owner or his or her legally designated agent. The petition shall also include a statement and diagram explaining the proposed changes.
2. Upon receipt of the petition, the Planning Commission, in accordance with Act 186 of the 1957 General Assembly as subsequently amended, shall proceed as follows:
  - a. The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least one (1) time fifteen (15) days prior to the hearing. Additionally, notification must be served to adjacent property owners, within three hundred (300) feet, by certified mail.

- b. Following the public hearing, the proposed amendment may be approved as presented or in modified form by a majority vote of the Planning Commission and recommended to the City Council.
- c. If the Planning Commission disapproves a proposed amendment, the reasons for such disapproval shall be given in writing to the petitioner within fifteen (15) days from the date of the decision.
- d. The City Council, by majority vote, may by ordinance adopt the recommended amendment submitted by the Planning Commission or may return the proposed change to the Planning Commission for further study and recommendation.

If the City Council does not concur with the recommendation for the Planning Commission, either as first submitted or as submitted after restudy, the City Council may, by majority vote, amend this ordinance by granting the request for the proposed change in the zoning classification in full or in modified form.

- e. Following disapproval of a proposed amendment by the Planning Commission, the petitioner may appeal such disapproval to the City Council, provided that the petitioner states specifically in writing to the City Recorder why he or she considers the Planning Commission's finding and decision are in error. Such appeal shall be filed with the City Recorder within fifteen (15) days from mailing date of notice to petitioner of Planning Commission.
3. No application for a change in zoning classification will be reconsidered by the Planning Commission within twelve (12) months from date of final disapproval unless the Commission finds that a substantial reason exists for waiving this limitation.
  4. Before any action shall be taken as provided in this section, any person or persons proposing a change in the zoning classification of his or her property shall pay to the City Recorder fees as established in Section 13.05 of this Code pursuant to the Planning Fee Schedule. Such fees are to cover the cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be approved by the Planning Commission and adopted by the City Council. (Ord. No. 2016-03, Sec. 3.)

#### **14.04.09 ENFORCEMENT AND ADMINISTRATION**

- A. **RESPONSIBILITY** The Code Enforcement Officer or other designated official shall be responsible for the administration and enforcement of this ordinance. (Ord. No. 97-8, Sec. 9.01.)

**B. BUILDING PERMITS** No structure shall be erected, moved, added to, or structurally altered without a building permit. No building permit shall be issued except in conformity with the provisions of Ord. No. 93-22, or any amendments thereto and replacements thereof. (Ord. No. 97-8, Sec. 9.02.)

**C. VIOLATIONS**

1. If the Enforcement Officer shall find that the provisions of this ordinance are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.
2. Should the person responsible for such violations fail to take the necessary action to correct it, the Enforcement Officer shall notify the City Council of the violation, said City Council shall certify the violation to the City Attorney, an said City Attorney shall, within seven (7) days, apply to Chancery Court for an injunction, mandamus, or other process to prevent, enjoin, abate, or remove said violation to this ordinance.
3. Each day a violation exists, after notification by the Enforcement Officer, constitutes a separate offense. The violator may be charged with a misdemeanor and shall be subject to a fine not to exceed Two Hundred Fifty Dollars (\$250.00). (Ord. No. 97-8, Sec. 9.03.)

**D. CERTIFICATION OF OCCUPANCY**

1. It shall be unlawful to use or occupy or permit the use or occupancy of any structure or land, or both, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use of structure until a certificate of occupancy shall have been issued by the Enforcement Officer stating that the proposed use of structure of land conforms to the requirements of this ordinance.
2. The Enforcement Officer shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person. (Ord. No. 97-8, Sec. 9.04.)

**14.04.10 HOME OCCUPATIONS**

- A. Those home occupations that meet all the requirements herein, may be permitted in accordance with the following provisions, and approved administratively by city staff. Home occupations that do not meet one or more of the requirements below must be approved by the Planning Commission through the conditional use procedure.
1. The home occupation is located completely within the principal dwelling unit.

2. The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No nonresident persons are employed or independently contracted.
  3. The home occupation is not primarily a retail sales operation. (Incidental sales, i.e. shampoo, cosmetics, are permitted.)
  4. The home occupation does not occupy more than 25 percent of the gross habitable ground floor area of the principal dwelling unit.
  5. The home occupation does not display merchandise or have outside storage of equipment or materials.
  6. The home occupation does not alter the external appearance of the principal dwelling unit.
  7. The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside the principal dwelling unit.
  8. The home occupation does not involve the storage of hazardous materials, other than substances of a type and quantity customarily associated with a home or hobby.
  9. The home occupation will not cause more than one customer vehicle to be parking in the vicinity of the principal dwelling unit at a time.
  10. The home occupation does not involve the external or visible manufacturing of goods on site.
- B. Home occupation must meet the following requirements to be considered for a conditional use permit by the Planning Commission.
1. Traffic generated by the proposed use must not negatively impact the safety, ambiance and characteristics of the residential neighborhood.
  2. The home occupation does not create noise, vibration, glare, fumes, electromagnetic interference, odors, or air pollution outside a structure.
  3. The home occupation is not primarily a retail sales operation (Incidental sales, i.e. shampoo, cosmetics, are permitted).
  4. The home occupation does not involve the storage of hazardous materials, other than substances of a type and quantity customarily associated with a home or hobby.
  5. The home occupation is solely operated by the owner(s) and occupant(s) of the dwelling. No nonresident persons are employed or independently contracted.

### C. **Examples of Home Occupations.**

1. Activities conducted principally by telephone, computer, facsimile or mail.
2. Studios where handicrafts or objects of art are produced.
3. Dressmaking or apparel alterations.
4. Barber or beauty shop (one chair).
5. Independent consultant such as Mary Kay, Pampered Chef, Avon, Southern Living at Home, etc.
6. Residential child care up to eight (8) children.

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

## **14.04.11 ALCOHOL SALES**

### A. **General Provisions**

1. **Applicability.** The definitions, terms and provisions of A.C.A. Title 3 Alcoholic Beverages (A.C.A. §3-1-101 et seq.) relating to beer, wine and liquors are hereby adopted and made a part of this article. Applicants for and holders of permits and other persons shall conform to the regulations set forth in A.C.A. Title 3 (A.C.A. §3-1-101 et seq.) and to the provisions of this article. (Ord. 2013-01; Sec.14.04.11)
  - a. It shall be unlawful for any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, within the City of Centerton without the appropriate permit issued by the Division of Alcoholic Beverage Control of the State of Arkansas.
  - b. It shall be unlawful to sell, offer for sale, or give away, at wholesale or retail for consumption on or off the premises, alcoholic beverages of every kind and type on those days or hours prohibited by A.C.A. Title 3 (A.C.A. §3-1-101 et seq.)
  - c. The provisions of this section shall not apply to the home manufacture of wines or beer for personal use by residents of the City of Centerton and not for sale or distribution outside of the home.

### B. **Establishment Types**

1. **Establishments – On Premise Consumption**

- a. Restaurant, Hotel or Motel – The retail sales of alcoholic beverages for consumption on the premises shall be allowed by right in the zoning district of C-2, General Commercial, and with conditional use approval in the zoning district of C-1, Downtown Commercial.
  - b. Bars, Pubs, Clubs, and Lodges – The retail sales of alcoholic beverages for consumption on the premises shall be subject to conditional use approval by the Centerton Planning Commission in the zoning districts of C-1 and C-2.
2. **Packaged Retail Sales – Off Premise Consumption**
- a. **Beer, Wine and Spirits – Districts Permitted.** The packaged retail sales of beer, wine, and spirits of every kind and type for consumption off the premises shall be allowed by right in the zoning district of C-2, General Commercial and with the issuance of a Conditional Use Permit in the C-1, Downtown Commercial zoning district, subject to the conditional use provisions as outlined below in Section b) Conditions for Use.
  - b. **Conditions for Use.** Public Notice of Hearing shall be advertised in a paper of general circulation at least one (1) time fifteen (15) days prior to the hearing to be conducted by the Planning Commission. Additionally, notification must be served to adjacent property owners within three hundred (300) feet. List of adjacent property owners and proof of mailing are required to be submitted to the City. Extra costs, such as advertising, will be the responsibility of the applicant.
3. **Wholesale Manufacture and/or Distribution.** The wholesale manufacture and/or distribution of intoxicating liquors to include alcoholic beverages of every kind and type shall be allowed by right in the I-1, Light Industrial and I-2, Heavy Industrial zoning districts and with the approval of a Conditional Use Permit in the C-2, General Commercial zoning district.
4. **Microbrewery-Restaurant.** A microbrewery-restaurant as defined by the Division of Alcoholic Beverage Control of the State of Arkansas, shall be allowed with the approval of a Conditional Use Permit in the C-1, Downtown Commercial, C-2, General Commercial, I-1, Light Industrial, and I-2, Heavy Industrial zoning districts.

#### **14.04.12 PLANNED UNIT DEVELOPMENTS**

##### **A. GENERAL**

- 1. **Approval.** *Planned unit developments* (PUDs) shall be allowed by Planning Commission approval in any commercial, residential, or industrial district. No such planned unit development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet

the spatial requirements and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code and approved by the Planning Commission. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements as otherwise required by the City of Centerton Municipal Code in Title 15 Subdivision & Development Regulations; Title 9 Streets, Sidewalks and Driveway; and Title 16 Drainage and Flood, etc., except as modifications thereof are specifically authorized in the approval of the application for the PUD.

2. **Intent.** These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD.

These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive, or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community.

It is intended to permit and encourage diversification, variation, and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and efficient development with relationships to public services, and to encourage and facilitate the preservation of open lands. The allowance for flexibility in the zoning regulations necessitates the developer to provide additional open space and amenities as further outlined in Section 14.04.12 to equally benefit the City.

3. **Definitions.** The following words, terms, and phrases, when used in Section 14.04.12, shall have the meanings ascribed to them in this section:

***Open space*** refers to common usable land for the purpose of providing parks, recreational facilities, areas for pedestrian gathering, movement and circulation, or conserving visually pleasing elements of the environment.

***Mixed Use*** refers to the integration of diverse uses such as residential, commercial, light industrial, and recreational uses within a single development or neighborhood to create a vibrant, walkable, and convenient community.

***Developable area*** refers to the buildable lots of the development, exclusive of areas dedicated to required drainage infrastructure and rights-of-way.

***Total project area*** refers to the overall subject site associated with the proposed development, as is described on the property deed submitted with the development application.

## B. CONDITIONS

1. **Area.** No PUD shall have an area less than that approved by the Planning Commission as adequate for the proposed development.
2. **Uses.** Permitted uses within a PUD shall conform to the permitted uses within the existing zoning district in which the PUD is being proposed, and/or shall be consistent with the general character of the land use classification of the subject property in the city's Land Use Plan, and/or be substantially similar to and compatible with adjacent property.

Conditional uses within a PUD must be shown as conditional on the Schedule of Uses table within the respective zoning district in order to be considered for approval by the Planning Commission within the PUD approval. Uses shown as conditional do not automatically receive approval with the PUD approval. Each conditional use requested must have specific requirements for the Planning Commission to approve. Any conditional use not specifically approved as part of the PUD approval shall follow the conditional use process.

3. **Ownership.** The development shall be in single or corporate ownership at the time of application, or the application is filed jointly by all owners of the property. Subdividing shall be defined with the PUD approval. No future additional land division shall be permitted, except upon consideration and approval by the Planning Commission.
4. **Design.** The Planning Commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected. Where feasible and applicable, it is recommended that the least height and density of buildings and uses be arranged around the boundaries of the development, with higher and more dense building arrangements in the interior.
5. **Connectivity.** The development shall consider future connectivity by providing shared access, street stub outs, trail connections or other requirements as recommended by planning staff and approved by the Planning Commission.
6. **Density.** Density for residential land use (number of dwelling units per acre) shall be consistent with the City's Comprehensive Plan and Zoning districts. If additional density is requested, additional open space above the 25% minimum will be required. The open space requirement will be increased at a minimum relative to the % increase in density.

### Density Increase/Open Space Table

| Increase in Density | Minimum Open Space Requirement |
|---------------------|--------------------------------|
| 0.00                | 25.00%                         |
| 5%                  | 26.25%                         |
| 10%                 | 27.50%                         |
| 15%                 | 28.75%                         |
| 20%                 | 30.00%                         |
| 25%                 | 31.24%                         |
| 30%                 | 32.5%                          |
| 35%                 | 33.75%                         |
| 40%                 | 35.00%                         |
| 45%                 | 36.25%                         |
| 50%                 | 37.50%                         |

7. **Accessory Buildings.** Placement and setbacks shall conform with Zoning District principal buildings, except as may be modified by the Planning Commission.
8. **Open Space.** PUDs shall designate a minimum of twenty-five (25) percent of the total development area to common usable open space, or as proportional to the increase of density. The Planning Commission may request additional open space based on proposed density, design, and adjacent land uses.

Open space shall be developed proportionally to each proposed phase of a development, unless expressly approved otherwise by the Planning Commission.

Open Space land **excludes** all buildings, accessory structures, yards, streets, or drainage ways & detention, and **shall be maintained as common usable open space** for the purpose of providing parks, recreational facilities, ways for pedestrian gathering, movement and circulation, and conserving visually pleasing elements of the environment.

a. Restrictions to Open Space Determination:

- i. Open space calculations shall not include rights-of-way, access drives, detention ponds, parking lots, parking lot island landscape requirements, buildings, accessory structures, yards, or other areas not open to all owners, tenants, and customers within the PUD.
- ii. No more than 50% of the common open space requirement can be comprised of the following conditions combined:
  - 1) Up to 50% of retention ponds or other bodies of water, as measured by the normal water surface area, can be counted

towards open space. The pond must include additional amenities such as a water feature, walking trail, seating, etc.

- 2) Up to 50% of utility or drainage easements that restrict the use of the property (i.e., gas easements and overhead electric) shall only be allowed to count towards the open space requirement if it provides an amenity, making them a usable space for the public such as a dog park, trails, wildflower gardens, etc. Playgrounds, parks, and structures cannot be constructed in these restrictive easements.
- 3) Land with a slope equal to or greater than 16% (6H:1V) must include amenities and/or visually pleasing landscaping such as trees, shrubs, wildflower gardens, etc. in order to count towards the open space requirement.
- 4) Areas located within wetlands and/or floodplains shall be limited to half of the restricted 50% common open space requirement. Floodplains will require amenities that activate the space such as a boardwalk, seating, trails, etc. to be included.
- 5) Other restrictive conditions may be identified by City Staff during the review of a project and could be subject to the above limitations, with the final decision to be determined by the Planning Commission.

iii. See Example below for calculating Open Space with restricted areas.



| OPEN SPACE CALCULATION EXHIBIT  |                       |             |                |             |
|---------------------------------|-----------------------|-------------|----------------|-------------|
| Total Acreage                   |                       | 9.83 Acres  |                |             |
| 25% Required Open Space         |                       | 2.46 Acres  |                |             |
| 50% allowed in restricted areas |                       | 1.23 Acres  |                |             |
|                                 | Unrestricted          | Restricted  | 50% Limitation | TOTAL       |
| Landscape Buffer                | 0.21                  |             |                | 0.21        |
| Pond                            |                       | 0.65        | 0.33           | 0.33        |
| Lot 1                           | 0.26                  | 0.53        | 0.27           | 0.53        |
| Lot 2                           | 0.07                  | 0.25        | 0.13           | 0.20        |
| Lot 3                           | 0.33                  | 0.5         | 0.25           | 0.58        |
| Lot 4                           | 0.17                  |             |                | 0.17        |
| Lot 5 (Comm)                    | 0.65                  | 0.02        | 0.01           | 0.66        |
| <b>Total</b>                    | <b>1.69</b>           | <b>1.95</b> | <b>0.98</b>    | <b>2.67</b> |
|                                 | Restricted Maximum    |             | 1.23           | 2.46        |
|                                 | Restricted Difference |             | 0.25           | -0.21       |

- b. reservation, maintenance, and ownership of required open spaces within the development shall be accomplished by either:
  - i. Dedication by deed or easement and improvement of the land for public use as a public park or trail system or public space; or
  - ii. Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remains perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the Planning Commission.

9. **Architectural Treatment.** All the items below shall apply to commercial, and mixed-use (commercial/residential) developments. Items (a) and (c) shall additionally apply to multi-family residential developments, and item (a) shall apply to industrial developments. Architectural elevations shall be provided with initial concept submittal to ensure that the following requirements are met.

- a. All uses shall incorporate architectural materials in the design of all structures. All façade walls shall be composed of one-hundred percent architectural materials including at least two (2) of the following materials on each façade wall: brick, exterior insulation finish systems (EIFS)/Dryvit, architectural concrete blocks, glass, pre-cast concrete, native stone, wood, tile, stucco (3 step process), fiber cement siding, aluminum composite panels (ACP), or flush metal paneling. ACP and flush metal paneling may not compose more than twenty (25) percent of the area of any one façade wall. This list should not be considered exhaustive, and other materials may be considered for review upon request of the applicant.
- b. Commercial or mixed-use (commercial/residential) structures shall have a front building façade with windows, glazing, and/or doors comprising no less than twenty (20) percent of its total square footage.
- c. The vertical plane of each façade visible from public view of a commercial or multi-family residential building shall not be completely flat but shall be broken vertically in a least one location in the vertical plane for each one hundred (100) feet of horizontal surface or a minimum of one (1) time, whichever is more stringent. This articulation requirement may be met by a recessed or extended entrance. Simulating an articulated façade through coursing or the use of at least two (2) different architectural materials may be considered to meet this requirement on sidewall facades or front facades after the first articulation.

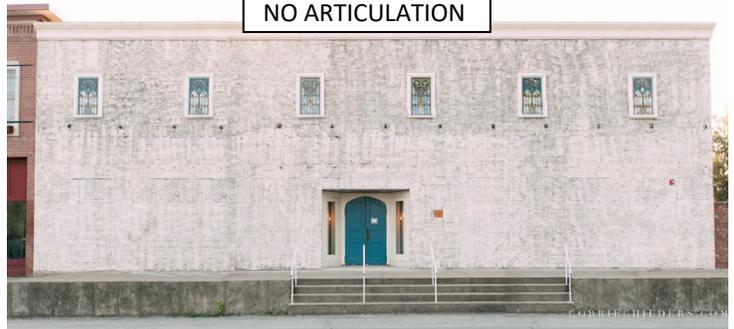
d. Examples of articulation.



*Building articulation helps to break up building mass and add visual interest.*



NO ARTICULATION



10. **Landscaping and Tree Preservation.** Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the PUD. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed, as required by City Code, and as approved by the Planning Commission. Additional landscaping requirements may be required with Large Scale Development or Subdivision Plans.
11. **Site Lighting.** Site lighting shall conform to the requirements of Chapter 15.12.xy, Outdoor Lighting & Illumination, of City Code. A photometric plan with information on poles, fixtures, illumination patterns, etc. will be required to be included with the development plan submittal.

12. **Off-Street Parking.**

- a. **Recommended Minimum Parking.** Parking requirements should follow the below recommended ratio, or otherwise approved by the Planning Commission with the PUD application:

| USE  | MINIMUM NUMBER OF PARKING SPACES RECOMMENDED   |
|--|--|
| Assembly   | 1 per 300 gross square feet  |
| Dwelling unit  | Single Family Units – 2 covered + 2 uncovered<br>Two-Five Plexes – 2 per dwelling unit (covered or uncovered)<br>Multi-Family – 1.5 per unit (covered or uncovered)<br>(Note: additional visitor parking will be considered)             |
| Hotel/motel  | 1 per sleeping unit plus<br>1 per 500 gross square feet  |
| Industry   | 1 per 500 gross square feet  |
| Medical office   | 1 per 200 gross square feet  |
| Office   | 1 per 300 gross square feet  |
| Restaurant-<br>Dine In / Drive Thru /<br>With Seating  | 1 per 100 gross sf + 8 que spaces per service lane   |
| Restaurant-<br>Drive-Thru/ Pickup<br>Only / No Seating | 1 per 275 sq ft building area + 8 que spaces per service lane  |
| Retail   | 1 per 200 gross square feet of floor space   |
| School   | Elem/Middle schools - 1 space per 5 students + 1 per faculty member<br>High schools 1 space per 3 students + 1 per faculty member<br>College/Tech School 1 per 4 students + faculty member<br>Assembly - 1 per 4 seats in assembly areas |
| Warehouse  | 1 per 500 gross square feet  |

- b. **Combination of uses.** Where there is a combination of uses on a lot, the applicant can propose a ratio with explanation to be approved by the Planning Commission. (Example: business with alternate schedules sharing parking)
- c. **Signs.** Proposed signage shall conform to the requirements of Chapter 18.04.xy, Sign Regulations, of City Code. The size, location, design and

nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the PUD development plans and on the Sign Permit application.

13. **Suitability.** The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general wellbeing of the surrounding area and City in general. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity of the PUD or the City as a whole. Consideration of alternate or multi-modal modes of transportation is encouraged.

### C. PLANNING COMMISSION DETERMINATION

1. **Considerations.** In carrying out the intent of this section, the Planning Commission shall consider the following principles:
  - a. It is the intent of this section that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning. The Planning Commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.
  - b. It is not the intent of this section that control of the design of a PUD by the Planning Commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose and intent of this section.
  - c. Approval shall be based on findings that the proposed PUD:
    - i. The development's land use is permitted in the presented zoning district, and/or is compatible with the city's Land Use Plan, and/or is substantially similar to adjacent property.
    - ii. The development is likely to be compatible with development and land use permitted as of right by the zoning ordinance on substantially all land in the vicinity of the proposed PUD.
    - iii. Provides public benefits that would not be achievable through the normal zoning regulations.
    - iv. Adequate public utilities are already in place to service the property, or the developer has sufficient plans and private financial

commitment in place to ensure adequate public utilities will be available to service the property.

- v. The development will not impose substantial negative external impacts on or prevent the orderly development of adjacent property.
  - vi. The development does not endanger public health, welfare or safety.
  - vii. The development satisfies any other requirements of the ordinance.
- f. The Planning Commission shall be authorized to approve or disapprove an application for a PUD. In an approval, the commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a PUD by the Planning Commission shall be permitted to be appealed to the legislative body of the jurisdiction. Should the Planning Commission deny a PUD application, an appeal may be filed with the Centerton City Council.
- g. Following denial of a proposed amendment by the Planning Commission, the applicant may appeal such disapproval to the City Council, provided that the applicant states specifically in writing to the City Recorder why he or she considers the Planning Commission's finding and decision are in error. Such appeal shall be filed with the City Recorder within fifteen (15) days from the date of notification of decision by the Planning Commission to applicant.

#### **D. REQUIRED CONTRIBUTIONS**

The Planning Commission body, as part of the approval of a PUD, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

1. Dedication or reservation of land for public park and trail purposes.
2. Dedication or reservation of land for public road right-of-way and alternative or multi-modal transportation purposes.
3. Dedication of public utility, drainage, and access easements.
4. Adjacent Street Improvements - construction of, or addition to, roads serving the proposed project where such construction or addition is reasonably related to the traffic to be generated.

5. Installation of required traffic safety devices as determined by Traffic Study.
6. Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

## **E. PROCEDURE**

1. **General.** A pre-application plan and conference is strongly recommended to provide information to the City of the developer's intention with respect to the nature and scope of the PUD district, and to allow the developer to be informed of the City's policies concerning development alternatives for the area. A formal application for a Conditional Use - Planned Unit Development Permit shall be submitted for review and approval.
2. **Pre-Application Plan and Conference.**
  - a. A pre-application plan and conference is strongly recommended for staff review of the area and proposed uses relative to the compatibility of a PUD project with existing development in the surrounding area and the Comprehensive Plan of the City.
  - b. It shall be the responsibility of the applicant to request the pre-application conference from planning staff.
  - c. The general outline of the proposal, evidenced by the pre-application plan and such other information as recommended on the PUD application checklist, are to be considered prior to submission of the PUD application. Staff will furnish the applicant with appropriate recommendations to inform and assist the applicant prior to preparing the components of the PUD application.
3. **Application Requirements.** After receiving recommendations from the pre-application plan and conference, the applicant may proceed in preparing a formal application for a Conditional Use – Planned Unit Development Permit to the Planning Commission. The application shall include architectural elevations/materials, an explanatory narrative and a concept plan that conforms to all requirements contained in the Centerton Subdivision & Development Regulations (Title 15 of the Centerton Municipal Code) with the exception of certain design requirements that are specifically exempted or modified by provisions of these regulations of the Zoning Ordinance. The following will be required for the submission to be accepted:
  - a. **Application.** Completed and signed application form.

- b. **Fee.** Payment of the filing fee as specified in the schedule of fees.
  - c. **Deed.** Copy of land deed showing ownership of property.
  - d. **Explanatory Narrative.** The applicant shall provide a written description of the proposed planned unit development to include:
    - i. Justification of compliance with the intent of this PUD ordinance and consistency with the local comprehensive plan;
    - ii. Description of proposed land uses and open space with percentages of land area devoted to each use;
    - iii. Description of compliance with PUD development criteria; and
    - iv. If phasing is proposed, a proposed schedule of construction.
    - v. **Concept Plan.** Applicants shall submit copies of the concept plan with required information as indicated in the Conditional Use – Planned Unit Development Permit application.
4. **Notification.** For all PUD’s, a public hearing shall be held concurrently with the review of the PUD plan by the Planning Commission and the following notifications shall be completed:
- a. **Notice of Public Hearing Preparation.** The Planning Department will review the application submittals and sign the “Notice of Public Hearing” for the Planning Commission Chairperson. This notice will be returned to the Applicant for notification purposes.
  - b. **Certified Mailing.** Applicant shall obtain a certified mailing list (from abstract company or Benton County Assessor’s Office) of anyone who owns or leases property within 300 feet of the property boundary of the property with the request. The Applicant will be responsible for any fees charged for this service. The applicant shall provide the City with a digital copy of the complete list of all adjacent Property Owners to be notified, in Excel Format if more than 10, and providing the following information, each in their own column: owner name (first, last); mailing address; property identification number (PID#); property address; and lot number (if platted lands). The applicant shall mail a copy of the signed “Notice of Public Hearing”, with a concept map and narrative provided by the City, by certified mail to everyone on the certified mailing list at least fifteen (15) days in advance of the public hearing to be conducted by the Planning Commission. The applicant shall provide the City a signed Affidavit of Notification along with all original certified mailing receipts with

associated name and addresses. The USPS tracking report for the certified mailing shall be provided to the City at least seven (7) days prior to the public hearing date.

- c. **Publication.** The Commission shall cause to have published at the expense of the applicant a notice of the time and place of the public hearing upon such appeal or application, which notice shall be advertised in a paper of general circulation at least one (1) time fifteen (15) days in advance of a public hearing to be conducted by the Planning Commission. Said notice shall designate the particular location with which the appeal or application is concerned, and a brief description of the appeal or application. The publication fee must be paid at least seven (7) days prior to the public hearing date, or the item may be removed from the agenda.
- d. **Sign Posting.** The applicant will be responsible for posting one or more signs, provided by the City, on the property subject to the Conditional Use PUD request 15 days prior to the Public Hearing date. The applicant will also be responsible for the removal/disposal of the sign within one day following the hearing date. The sign must be viewable to the public and may be displayed on a fence with zip ties, or in the ground in front of the property where the PUD applies, with visibility on both sides of the sign.

**5. Planning Commission Review and Action.** The Planning Commission shall have the authority to require that the following conditions for a planned unit development (PUD) be met by the applicant:

- a. That the development is planned as one integrated land use rather than as an aggregation of individual and unrelated buildings and uses.
- b. Other conditions may be deemed appropriate or necessary by the Planning Commission.

**6. Limitations on Application.**

- a. Upon approval of a PUD, construction shall proceed only in accordance with the plans and specifications approved by the Planning Commission and in compliance with any conditions attached by the jurisdiction as to its approval. If subdivision or development plans do not comply with the approved PUD conditions, the Planning Commission may deny the subdivision or development plans.
- b. The building official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.

**7. Amendment**

- a. Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures herein outlined for first approval, including renotification to the public and a held public hearing, at discretion of the Planning Director.

## **8. Extensions & Expiration**

- a. Preliminary Large-scale or subdivision plans must be submitted and approved within a year of the PUD approval, or reapproval, of the PUD from the Planning Commission will be required. Preliminary plan approval is effective for one year, or as otherwise approved by the Planning Commission.
- b. To maintain PUD and preliminary plan approval, construction must start within one year of preliminary plan approval by the Planning Commission and complete said construction, or approved stages thereof, within 3 years from the date the preconstruction conference is held. A longer construction timeframe can be requested at the time of PUD application or preliminary plan approval.

To receive a time extension of PUD and preliminary plan approval, the developer or owner must notify city staff, in writing, a request for an extension with reason prior to the date of expiration. Failure to notify the city within the required timeframe will result in the expiration of previous approvals

## **14.04.13 RESIDENTIAL COMPATIBILITY STANDARDS**

### **A. INTENT**

The compatibility standards of this section are intended to protect low density residential uses and neighborhoods from the adverse impacts sometimes associated with higher density residential uses and nonresidential development. The standards are intended to mitigate the effects of uses with operating and structural characteristics that are vastly different than those associated with single-family uses.

### **B. APPLICABILITY ("triggering property")**

Compatibility standards shall apply to all development in the R3-MF, RTH-5, R4-MF, C-1, C-2, C-3, I-1, and I-2 zoning districts when such development is adjacent to "triggering property," which shall include all property:

1. Occupied by a single-family dwelling unit that is a use permitted by-right in the zoning district in which it is located; or
2. Zoned in any of the following: R-E, R-1, R-2, R-3SF, R-3D, and RTH-2 districts.

3. Exemptions:
  - a. Notwithstanding the above applicability provisions, compatibility standards shall not be triggered by property that is public right-of-way, or public roadway.
  - b. The following uses and activities shall specifically be exempt from compliance with compatibility standards:
    - i. Construction of a use permitted by-right in an R-E, R-1, R-2, R-3SF, R-3D, RTH-2, and
    - ii. Structural alteration of an existing building when such alteration does not increase the building's square footage or height, or result in an increase in noise, hours of operation, or other factors which would impact surrounding properties; However, if the site is altered with the building alteration, then compliance with landscaping and screening portions of this code may apply subject to the discretion of the planning commission; and
    - iii. A change in use that does not increase the minimum number of off-street parking spaces required.

### C. SETBACK STANDARDS OF TRIGGERING PROPERTIES

The following setback standards shall apply to all development that is subject to compatibility standards:

1. **Small sites.** On sites with 20,000 square feet of area or less that also have less than 200 feet of street frontage, structures shall be set back from the lot line of triggering property one-and-one-half times the required setback.
2. **Surface-level parking and driveways.** Surface-level off-street parking areas and driveways shall not be subject to the above setback standards; however, such standards shall apply to parking structures. Surface -level parking areas shall be set back a minimum of ten feet from the lot line of triggering property.
3. **Screening standards.** Decorative walls, vegetative screening, fencing, or earthen berms, or other type of screening as approved by the Planning Commission shall be provided to completely screen off-street parking areas, mechanical equipment, storage areas, and refuse collection areas from view of triggering property
4. **Site design standards.** The following additional site design standards shall apply to development that is subject to the compatibility standards of this section:
  - a. No swimming pool, tennis court, ball field, or playground area (except those that are accessory to a single-family dwelling unit) shall be permitted within 30 feet of the lot line of triggering property.
  - b. Dumpsters and refuse receptacles shall be located a minimum of fifteen (15) feet from the lot line of triggering property.

- c. Dumpsters and refuse receptacles shall be located a minimum of 5 feet from the fascia of any adjacent structure on the same site.
- d. Exterior lighting shall be in compliance with all applicable city codes and designed and located to minimize light spilling onto surrounding property and source of light cannot be in the direct line of sight.

#### **14.04.14 SCHEDULE OF USES**

##### **A. PERMITTED, PROHIBITED, AND CONDITIONAL USES**

1. **Permitted Uses.** Where the letter “P” appears on the line of a permitted use and in the column of a district, the use is permitted in that district subject to the provisions of Section 14.04.04 Zoning Districts.
2. **Conditional Uses.** Where the letter “C” appears, this use is permitted subject to acquiring a conditional use permit and requires review and approval by the Planning Commission. A conditional use (otherwise known as uses on appeal) is a use that is not expressly permitted in a district, however, may be considered for compatible and appropriate with existing uses. The Planning Commission may put conditions on these, including but not limited to, operating limits, parking restrictions, landscaping, or timed renewal of the permit, as is required to mitigate any adverse impacts of the use.
3. **Prohibited Uses.** Where a use is listed but neither “P” nor “C” appears in a district column, the use is not permitted in the district. This prohibition may be appealed to the Board of Zoning Adjustment as a variance request; or an application can be made to the Planning Commission and handled as a proposed amendment to the zoning ordinance per Section 14.04.08.
4. **Uses Not Listed.** When a use is proposed that is not listed in the Schedule of Uses, the Planning Director shall recommend to the applicant the appropriate districts based on land uses that are similar in size, bulk, and traffic generation. The proposed use requires review and approval by the Planning Commission. If the applicant does not agree with this interpretation, he/she may appeal the interpretation to the Board of Adjustment. If the Planning Director fails to make an interpretation for the use in question, then the application shall be handled as a proposed amendment to the Zoning Code and processed in accordance with Section 14.04.08.
5. **Less Intensive Uses.** Less intensive uses may be allowed in a higher zone upon consideration and approval by the Planning Commission.

**Schedule of Uses Listed on Next Page**

### Section 14.04.14 - SCHEDULE OF USES

|                                | P=Permitted; C=Conditional                                      | AG | RESIDENTIAL |    |    |       |      |       |       |       |       |    |    | COMMERCIAL |    |    | INDUSTRIAL |    |
|--------------------------------|---|----|-------------|----|----|-------|------|-------|-------|-------|-------|----|----|------------|----|----|------------|----|
|                                |   | A1 | RE          | R1 | R2 | R3-SF | R3-D | R3-MF | R4-MF | RTH-2 | RTH-5 | RC | MH | C1         | C2 | C3 | I1         | I2 |
| <b>USES</b>                    |   |    |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |
| <b>AGRICULTURE AND ANIMALS</b> |   |    |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |
| 1                              | Agricultural product processing                                 | P  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          | P  |
| 2                              | Agricultural-related business                                   | P  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          | P  |
| 3                              | Agriculture / Farm crops  | P  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          | C  |
| 4                              | Animal – domestic or household                                  | P  | P           | P  | P  | P     | P    | P     | P     | P     | P     | P  | P  | P          | P  | P  | P          | P  |
| 5                              | Animal - exotic   | C  |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |
| 6                              | Animal - farm   | P  | P           |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |
| 7                              | Animal Kennel/Boarding/Training/Shelter<br>[MC6.04.14, 6.04.15] | P  | C           |    |    |       |      |       |       |       |       |    |    | C          | C  | C  | P          |    |
| 8                              | Animal clinic/veterinary (large animals)                        | P  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          | P  |
| 9                              | Animal clinic/veterinary (small animals)                        | P  |             |    |    |       |      |       |       |       |       |    |    | C          | P  |    | C          |    |
| 10                             | Apiculture (Bee Keeping) (*single family only)                  | P  | P           | C  | C* | C     |      |       |       |       |       |    |    |            |    |    |            |    |
| 11                             | Botanical Garden  | P  | C           | C  | C  | C     | C    | C     | C     | C     | C     | C  | C  | P          | P  | P  |            |    |
| 12                             | Community Garden  | P  | P           | P  | P  | P     | P    | P     | P     | P     | P     | P  | P  | P          | P  | P  | P          | P  |
| 13                             | Crop Sales & Farmers Market                                     | P  | C           |    |    |       |      |       |       |       |       |    |    | C          | C  | C  | C          |    |
| 14                             | Farm Equipment and Supply Sales                                 | P  |             |    |    |       |      |       |       |       |       |    |    |            | C  |    | P          | P  |
| 15                             | Feed Store  | P  |             |    |    |       |      |       |       |       |       |    |    |            | C  |    | P          | P  |
| 16                             | Grain Elevator or Feed Mill, Storage                            | P  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          | P  |
| 17                             | Greenhouse (Commercial)   | P  | C           |    |    |       |      |       |       |       |       |    |    | C          | P  | C  | P          | P  |
| 18                             | Livestock Market  | P  |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            | C  |
| 19                             | Marijuana Cultivation   | C  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          | C  |
| 20                             | Pet Shop/Grooming   | P  | C           |    |    |       |      |       |       |       |       |    |    | C          | P  | C  | C          |    |
| 21                             | Plant Nursery / Tree Farm                                       | P  |             |    |    |       |      |       |       |       |       |    |    | C          | C  |    | P          | P  |
| 22                             | Slaughterhouse  | C  |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            | C  |
| 23                             | Stables (Commercial, Riding & Boarding)                         | P  | C           |    |    |       |      |       |       |       |       |    |    |            |    |    | C          |    |
| 24                             | Zoo   | C  |             |    |    |       |      |       |       |       |       |    |    |            |    |    | C          |    |
|                                |   |    |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |
|                                |   |    |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |
|                                |   |    |             |    |    |       |      |       |       |       |       |    |    |            |    |    |            |    |

|  | <b>P=Permitted; C=Conditional</b>  | <b>AG</b> | <b>RESIDENTIAL</b> |           |           |           |              |             |              |              |              |              |           | <b>COMMERCIAL</b> |           |           | <b>INDUSTRIAL</b> |           |
|--|--|-----------|--------------------|-----------|-----------|-----------|--------------|-------------|--------------|--------------|--------------|--------------|-----------|-------------------|-----------|-----------|-------------------|-----------|
|  |  |           | <b>A1</b>          | <b>RE</b> | <b>R1</b> | <b>R2</b> | <b>R3-SF</b> | <b>R3-D</b> | <b>R3-MF</b> | <b>R4-MF</b> | <b>RTH-2</b> | <b>RTH-5</b> | <b>RC</b> | <b>MH</b>         | <b>C1</b> | <b>C2</b> | <b>C3</b>         | <b>I1</b> |
| <b>RESIDENTIAL</b>                         |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |
| 25   | Dwelling – accessory living unit   | P         | C                  | C         | C         | C         |              |             |              |              |              |              |           | C                 | C         | C         |                   |           |
| 26   | Dwelling – condominium   |           |                    |           |           |           |              |             |              |              |              | P            |           |                   |           |           |                   |           |
| 27   | Dwelling – manufactured / modular  | P         | P                  | C         |           | C         |              |             |              |              |              |              | P         |                   |           |           |                   |           |
| 28   | Dwelling – multi-family  |           |                    |           |           |           |              | P           | P            |              |              |              |           |                   |           |           |                   |           |
| 29   | Dwelling – single family   | P         | P                  | P         | P         | P         | P            | P           | P            |              |              |              | P         |                   |           |           |                   |           |
| 30   | Dwelling – two-family (duplex)   |           |                    |           | P         |           | P            | P           | P            |              |              |              |           |                   |           |           |                   |           |
| 31   | Dwelling – twin home (two single-family attached)                                  |           |                    |           |           |           |              |             |              | P            |              |              |           |                   |           |           |                   |           |
| 32   | Dwelling – townhouse (multiple single-family attached / row houses)                |           |                    |           |           |           |              |             |              |              | P            |              |           |                   |           |           |                   |           |
| 33   | Home Occupation – (*requires HOP) [MC 14.04.10A]                                   | p*        | p*                 | p*        | p*        | p*        | p*           | p*          | p*           | p*           | p*           | p*           | p*        |                   |           |           |                   |           |
| 34   | Home Occupation [MC 14.04.10B]   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         |                   |           |           |                   |           |
| 35   | Manufactured Home Park   |           |                    |           |           |           |              |             |              |              |              |              | P         |                   |           |           |                   |           |
| 36   | Residential Facility – Assisted living   |           |                    |           |           | C         | C            | C           | C            | C            | C            | C            |           | C                 | C         | C         |                   |           |
| 37   | Residential Facility – Extended Medical Care (Nursing Home)                        |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | C         | C         |                   |           |
| 38   | Residential Facility – Group Home (temp shelter, youth center, half-way home, ...) | C         |                    |           |           | C         | C            | C           | C            |              |              |              |           | C                 | C         | C         |                   |           |
| 39   | Residential Facility – Rehabilitation  |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         |                   |           |
| <b>MUNICIPAL/EDUCATION/PUBLIC ASSEMBLY</b> |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |
| 40   | Arena /Auditorium / Convention Center  |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         | C                 | C         |
| 41   | Cemetery / Mausoleum   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         | C                 | C         |
| 42   | Community/Event Center   | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         |                   |           |
| 43   | Educational Facilities   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         | C                 | C         |
| 44   | Emergency Services (fire/police, etc)  | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         | C                 | C         |
| 45   | Governmental Agencies/Offices  | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         | P                 | P         |
| 46   | Jail / Correctional Facility   | C         |                    |           |           |           |              |             |              |              |              |              |           |                   | C         |           | P                 | P         |
| 47   | Library  | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | P                 | P         | C         |                   |           |
| 48   | Museum, Art Gallery, or Other Similar Public Use                                   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | P                 | P         | C         |                   |           |
| 49   | Post Office  |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | C         | C         |                   |           |
| 50   | Religious Facilities   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         | C                 | C         |

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|-------------------|--|-----------|--------------------|-----------|-----------|-----------|--------------|-------------|--------------|--------------|--------------|--------------|-----------|-------------------|-----------|-----------|-------------------|-----------|
|                   |  |           | <b>A1</b>          | <b>RE</b> | <b>R1</b> | <b>R2</b> | <b>R3-SF</b> | <b>R3-D</b> | <b>R3-MF</b> | <b>R4-MF</b> | <b>RTH-2</b> | <b>RTH-5</b> | <b>RC</b> | <b>MH</b>         | <b>C1</b> | <b>C2</b> | <b>C3</b>         | <b>I1</b> |
| <b>RECREATION</b> |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |
| 51                | Campground   | C         | C                  |           |           |           |              |             |              |              |              |              |           | C                 | C         |           | C                 |           |
| 52                | Country Club / Clubhouse (private)                                   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | P         | C         |                   |           |
| 53                | Dance / Gymnastics / Karate Studio, etc.                             | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 54                | Fair or rodeo grounds  | C         |                    |           |           |           |              |             |              |              |              |              |           |                   | C         |           | C                 | C         |
| 55                | Golf Course  | P         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         | C                 | C         |
| 56                | Golf Driving Range   | P         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         | C                 | C         |
| 57                | Golf - Miniature   | C         |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         | P                 |           |
| 58                | Gun Range (Indoor)   | C         |                    |           |           |           |              |             |              |              |              |              |           |                   | C         |           | P                 | P         |
| 59                | Gun Range (Outdoor)  | C         |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           | C                 | C         |
| 60                | Parks  | P         | P                  | P         | P         | P         | P            | P           | P            | P            | P            | P            | P         | P                 | P         | P         | P                 | P         |
| 61                | Recreation Facility – Indoor   | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         | P                 | P         |
| 62                | Recreational Facility – Outdoor                                      | C         |                    |           |           |           |              |             |              |              |              |              |           | C                 | C         | C         | C                 | C         |
| 63                | Recreational Vehicle Park  | C         |                    |           |           |           |              |             |              |              |              |              | P         | C                 | C         |           | C                 |           |
| 64                | Theater (indoor)   |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         |           |                   |           |
| 65                | Theater Drive-In (outdoor)   | C         |                    |           |           |           |              |             |              |              |              |              |           |                   | C         |           | C                 |           |
| <b>SERVICES</b>   |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |
| 66                | ATM Machine  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         | P                 | P         |
| 67                | Auction House  | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         | P                 | P         |
| 68                | Auction – Auto or Large Equipment                                    | C         |                    |           |           |           |              |             |              |              |              |              |           |                   | C         |           | P                 | P         |
| 69                | Auto detail, glass, muffler, brakes, tires, upholstery               | C         |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           | P                 | P         |
| 70                | Auto Rental Agency   |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           | P                 | P         |
| 71                | Auto Repair Garage (mechanical & auto body)                          | C         |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           | P                 | P         |
| 72                | Bank/Financial Institutions  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 73                | Barber, Beauty Shop, Nail Salon                                      | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 74                | Barber, Beauty Shop, Nail Salon – Residential (1 chair) [MC14.04.10] | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            |           |                   |           |           |                   |           |
| 75                | Car Wash   |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           | P                 | P         |
| 76                | Catering   | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            |           | P                 | P         | P         |                   |           |
|                   | (SERVICES CONT'D NEXT PAGE)  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |

|                                  | <b>P=Permitted; C=Conditional</b>  | <b>AG</b> | <b>RESIDENTIAL</b> |           |           |           |              |             |              |              |              |              |           | <b>COMMERCIAL</b> |           |           | <b>INDUSTRIAL</b> |           |
|----------------------------------|--|-----------|--------------------|-----------|-----------|-----------|--------------|-------------|--------------|--------------|--------------|--------------|-----------|-------------------|-----------|-----------|-------------------|-----------|
|                                  |  |           | <b>A1</b>          | <b>RE</b> | <b>R1</b> | <b>R2</b> | <b>R3-SF</b> | <b>R3-D</b> | <b>R3-MF</b> | <b>R4-MF</b> | <b>RTH-2</b> | <b>RTH-5</b> | <b>RC</b> | <b>MH</b>         | <b>C1</b> | <b>C2</b> | <b>C3</b>         | <b>I1</b> |
| <b>SERVICES cont'd</b>           |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |
| 77                               | Cleaning/Janitorial Service  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         | P                 | P         |
| 78                               | Child Care - Commercial  | C         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 79                               | Child Care - Residential (Up to 8 children)                                | C         | C                  | C         | C         | C         | C            |             |              | C            | C            | C            | C         |                   |           |           |                   |           |
| 80                               | Contractors (Electrical, Plumbing, HVAC, Painting, Masonry, Roofing, etc.) | P         |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           | P                 | P         |
| 81                               | Contractors - Heavy Equipment  | P         |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           | C                 | P         |
| 82                               | Crematory  |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | C         |           | P                 | P         |
| 83                               | Dry Cleaning / Laundromat  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         |                   |           |
| 84                               | Funeral Home   |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         |                   |           |
| 85                               | Health Spa   |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         |                   |           |
| 86                               | Lodging - Bed & Breakfast / Homestay                                       | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | C                 | C         | C         |                   |           |
| 87                               | Lodging - Motel/Hotel  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         |           |                   |           |
| 88                               | Medical Services - Hospitals   |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           |                   |           |
| 89                               | Medical Services - Doctor office   |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 90                               | Medical Services - Laboratory  |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         | P                 | P         |
| 91                               | Medical Services - Substance abuse or mental health treatment clinic       |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         |           |                   |           |
| 92                               | Office (General or Professional)   |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 93                               | Photography Studio   |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         |                   |           |
| 94                               | Print Shop, Lithographer or Blueprinting                                   |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         | P                 |           |
| 95                               | Repair Services - Household  | P         |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | P         | P                 | P         |
| 96                               | Repair Services - Large Equipment  | P         |                    |           |           |           |              |             |              |              |              |              |           |                   | P         |           | P                 | P         |
| 97                               | Senior Activity Center/Adult Day Services                                  | C         | C                  | C         | C         | C         | C            | C           | C            | C            | C            | C            | C         | P                 | P         | P         |                   |           |
| <b>RETAIL</b>                    |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |
| 98                               | Alcohol Mfg - Microbrewery-Restaurant                                      |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | C         | C         | P                 | P         |
| 99                               | Alcohol Sales - Off Premise Consumption                                    |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         |                   |           |
| 100                              | Alcohol Sales - On Premise Consumption                                     |           |                    |           |           |           |              |             |              |              |              |              |           | C                 | P         | C         |                   |           |
| 101                              | Appliance Sales & Service  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         | C         |                   |           |
| 102                              | Auto Parts and Accessories Retail  |           |                    |           |           |           |              |             |              |              |              |              |           | P                 | P         |           |                   |           |
| <i>(RETAIL CONT'D NEXT PAGE)</i> |  |           |                    |           |           |           |              |             |              |              |              |              |           |                   |           |           |                   |           |

|     | <b>P=Permitted; C=Conditional</b>          | AG | RESIDENTIAL |    |    |    |       |      |       |       |       |       |    | COMMERCIAL |    |    | INDUSTRIAL |    |    |
|-----|--|----|-------------|----|----|----|-------|------|-------|-------|-------|-------|----|------------|----|----|------------|----|----|
|     |  |    | A1          | RE | R1 | R2 | R3-SF | R3-D | R3-MF | R4-MF | RTH-2 | RTH-5 | RC | MH         | C1 | C2 | C3         | I1 | I2 |
|     | <b>USES</b>                                |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |
|     | <b>RETAIL cont'd</b>                       |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |
| 103 | Auto Sales                                 | C  |             |    |    |    |       |      |       |       |       |       |    |            | P  |    |            | P  | P  |
| 104 | Bakery or Confectionary Shop               |    |             |    |    |    |       |      |       |       |       |       |    | P          | P  | P  |            |    |    |
| 105 | Gas Propane Refill Stations                |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | C  | P  |
| 106 | Building Materials & Supply                |    |             |    |    |    |       |      |       |       |       |       |    | C          | P  |    |            | P  | P  |
| 107 | Business Machines and Repair               |    |             |    |    |    |       |      |       |       |       |       |    | P          | P  | P  |            | P  | P  |
| 108 | Cabinet or Woodwork Shop                   | P  |             |    |    |    |       |      |       |       |       |       |    | C          | P  | C  |            | P  | P  |
| 109 | Convenience Store                          | C  |             |    |    |    |       |      |       |       |       |       |    | C          | P  | C  |            | P  | P  |
| 110 | Flea Market / Antique Shop                 | C  |             |    |    |    |       |      |       |       |       |       |    | P          | P  | C  |            | C  |    |
| 111 | Florist Shop                               |    |             |    |    |    |       |      |       |       |       |       |    | P          | P  | P  |            |    |    |
| 112 | Frozen Food Locker                         |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | C  | P  |
| 113 | Fuel Station                               | C  |             |    |    |    |       |      |       |       |       |       |    | C          | P  | C  |            | P  | P  |
| 114 | Grocery Store                              |    |             |    |    |    |       |      |       |       |       |       |    | P          | P  | P  |            |    |    |
| 115 | Machinery, Heavy Equipment Sales & Svc     | P  |             |    |    |    |       |      |       |       |       |       |    |            | C  |    |            | P  | P  |
| 116 | Machinery, Light Equipment Sales & Svc     |    |             |    |    |    |       |      |       |       |       |       |    | C          | C  |    |            | P  | P  |
| 117 | Mobile Food Vendor/Food Truck [MC 4.28.01] | C  |             |    |    |    |       |      |       |       |       |       |    | C          | C  | C  |            | C  | C  |
| 118 | Modular/Manufactured Home Sales            |    |             |    |    |    |       |      |       |       |       |       |    |            | C  |    |            | P  | P  |
| 119 | Pawn Shop                                  |    |             |    |    |    |       |      |       |       |       |       |    | C          | P  |    |            | P  |    |
| 120 | Pharmacy / Marijuana Dispensary            |    |             |    |    |    |       |      |       |       |       |       |    | C          | C  |    |            |    |    |
| 121 | Pool Sales & Supplies                      |    |             |    |    |    |       |      |       |       |       |       |    | C          | C  |    |            | P  | P  |
| 122 | Portable Building Sales                    | C  |             |    |    |    |       |      |       |       |       |       |    |            | C  |    |            | P  | P  |
| 123 | Recreational Vehicle/Boat Sales & Rental   |    |             |    |    |    |       |      |       |       |       |       |    |            | C  |    |            | P  | P  |
| 124 | Restaurant/Diner                           | C  |             |    |    |    |       |      |       |       |       |       |    | P          | P  | C  |            | P  | P  |
| 125 | Retail Stores - Small scale (≤4,000 gsf)   |    |             |    |    |    |       |      |       |       |       |       |    | P          | P  | P  |            | P  | P  |
| 126 | Retail Stores - Large Scale (>4,000 gsf)   |    |             |    |    |    |       |      |       |       |       |       |    | C          | P  | C  |            | P  | P  |
| 127 | Sign Shop                                  |    |             |    |    |    |       |      |       |       |       |       |    | C          | P  | C  |            | P  | P  |
| 128 | Sexually Oriented Businesses [MC 7.36]     |    |             |    |    |    |       |      |       |       |       |       |    |            | C  |    |            |    |    |
| 129 | Tool & Equipment Rental (Light)            |    |             |    |    |    |       |      |       |       |       |       |    | C          | C  | C  |            | P  | P  |
| 130 | Tool & Equipment Rental (Heavy)            |    |             |    |    |    |       |      |       |       |       |       |    |            | C  |    |            | P  | P  |
|     |  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |
|     |  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |
|     |  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |

|                                   | <b>P=Permitted; C=Conditional</b>   | AG | RESIDENTIAL |    |    |    |       |      |       |       |       |       |    | COMMERCIAL |    |    | INDUSTRIAL |    |    |
|-----------------------------------|---|----|-------------|----|----|----|-------|------|-------|-------|-------|-------|----|------------|----|----|------------|----|----|
|                                   |   |    | A1          | RE | R1 | R2 | R3-SF | R3-D | R3-MF | R4-MF | RTH-2 | RTH-5 | RC | MH         | C1 | C2 | C3         | I1 | I2 |
| <b>INDUSTRIAL AND WAREHOUSING</b> |   |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |
| 129                               | Alcohol Manufacturing & Distribution                                      |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    |    |
| 130                               | Artisan/craft product manufacturer (brick, pottery, tile and terra cotta) | C  |             |    |    |    |       |      |       |       |       |       |    |            | C  | C  | C          | P  | P  |
| 131                               | Batch Plant / Concrete Mix Quarry   |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    | P  |
| 132                               | Canning Plant   |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    | P  |
| 133                               | Cold Storage Plants   |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | C  | P  |
| 134                               | Construction Facility / Maintenance Yard                                  |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |
| 135                               | Distribution, hauling, & trucking   |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | C  | P  |
| 136                               | Fabrication / Assembly  |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |
| 137                               | Industrial - Intensive  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    | P  |
| 138                               | Industrial - Light  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | P  | P  |
| 139                               | Laboratory – Experimental & Testing                                       |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |
| 140                               | Laboratory - Manufacturing  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | P  | P  |
| 141                               | Machine, Metal or Welding Shop  | C  |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | P  | P  |
| 142                               | Manufacturing   |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |
| 143                               | Millwork Products (Woodworking)   | C  |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | C  | P  |
| 144                               | Mining  | C  |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    | C  |
| 145                               | Monument & Stone Manufacturing  |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | C  | P  |
| 146                               | Recycling and Reclamation   |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | C  | P  |
| 147                               | Salvage Yard  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            |    | C  |
| 148                               | Septic Tank Cleaning/Port-A-Potty Svc                                     |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | C  | C  |
| 149                               | Vehicle Storage   |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |
| 150                               | Warehouse Mini-Storage  |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |
| 151                               | Warehouse/Storage Facility  |    |             |    |    |    |       |      |       |       |       |       |    |            |    |    |            | P  | P  |
| 152                               | Wholesaling   |    |             |    |    |    |       |      |       |       |       |       |    |            |    | C  |            | P  | P  |

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|--|---|----|-------------|----|----|----|----|-------|------|-------|-------|-------|-------|------------|----|----|------------|----|----|
|  |   |    | USES        | A1 | RE | R1 | R2 | R3-SF | R3-D | R3-MF | R4-MF | RTH-2 | RTH-5 | RC         | MH | C1 | C2         | C3 | I1 |
| <b>COMMUNICATION, TRANSPORTATION &amp; UTILITIES</b> |   |    |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            |    |    |
| 153  | Airport Facilities                            | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            | C  | C  |
| 154  | Broadcasting & Recording Studio               | P  |             |    |    |    |    |       |      |       |       |       |       | P          | P  | C  |            | P  | P  |
| 155  | Electric Generating Plant                     | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            | C  | C  |
| 156  | Electric Regulating Station                   | C  |             |    |    |    |    |       |      |       |       |       |       |            | C  |    |            | C  | C  |
| 157  | Parking facility (as principal use)           |    |             |    |    |    |    |       |      |       |       |       |       | C          | P  | C  |            | P  | P  |
| 158  | Utility & Street Maintenance Facility         | C  |             |    |    |    |    |       |      |       |       |       |       |            | C  |    |            | P  | P  |
| 159  | Sewage Containment & Disposal Facility        | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            | C  | C  |
| 160  | Transportation facilities excluding airports  |    |             |    |    |    |    |       |      |       |       |       |       | C          | C  | C  |            | P  | P  |
| 161  | Solid Waste Disposal & Transfer Facility      | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            |    | C  |
| 162  | Wastewater Treatment Plant                    | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            |    | C  |
| 163  | Water Towers / Storage Facility               | C  | C           | C  | C  | C  | C  | C     | C    | C     | C     | C     | C     | C          | C  | C  | C          | C  | C  |
| 164  | Water Treatment Plant                         | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            | C  | C  |
| 165  | Wind Energy System, large                     | C  |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            |    | C  |
| 166  | Wireless Communication Facility (cell towers) | C  | C           | C  | C  | C  | C  | C     | C    | C     | C     | C     | C     | C          | C  | C  | C          | C  | C  |
| <b>OTHER</b>   |   |    |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            |    |    |
| 167  | Plan Unit Development (PUD)                   |    | C           | C  | C  | C  | C  | C     | C    | C     | C     | C     | C     | C          | C  | C  | C          | C  | C  |
| 168  | Mixed Use                                     | C  | C           | C  | C  | C  | C  | C     | C    | C     | C     | C     | C     | C          | C  | C  | C          |    |    |
| 169  | Temporary Uses                                | C  | C           | C  | C  | C  | C  | C     | C    | C     | C     | C     | C     | C          | C  | C  | C          | C  | C  |
|  | - Recreational Vehicles [MC 8.12]             |    |             |    |    |    |    |       |      |       |       |       |       |            |    |    |            |    |    |

## **CHAPTER 14.08**

### **MOBILE HOMES**

#### **Sections:**

|          |                            |
|----------|----------------------------|
| 14.08.01 | Definitions                |
| 14.08.02 | Placed on lot              |
| 14.08.03 | Manufactured homes         |
| 14.08.04 | Non-conforming use of land |
| 14.08.05 | Fine                       |

**14.08.01 Definitions** For the purposes of this ordinance the following words or phrases shall mean:

**Dwelling unit:** Any room or group of rooms, including manufactured housing units, located within a structure forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation by one family.

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

**Manufactured home:** A dwelling built in a factory in accordance with the Federal Manufactured Home Construction and Safety Standards.

**Mobile home:** A dwelling that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, built prior to the enactment of the Federal Manufactured Home Construction and Safety Standards in 1976, and consistent with any existing state definitions.

**Modular home:** A residential dwelling, constructed in a factory to a residential construction code other than the Federal Manufactured Home Construction and Safety Standards.

**Place, placed or placement:** To situate upon a foundation, tie-down or connect by any means to any utility service of the city or occupied as living or sleeping quarters by one or more persons.

#### **14.08.02 Placed on lot**

It shall be unlawful for any mobile home (as that term is defined herein) to be placed in any area or upon any lot or property in the city of Centerton from the date of adoption hereof and the placement of any mobile home shall be illegal. All mobile homes which were placed within the corporate limits of the city of Centerton prior to the date of the adoption of this ordinance shall be considered legally and properly permitted.

#### **14.08.03 Manufactured homes**

The provisions of this chapter shall not apply to manufactured homes or modular homes as defined in section 14.08.01 hereof.

#### **14.08.04 Non-conforming use of land**

Each mobile home currently placed within the city limits shall be considered a separate nonconforming use of land, as defined in the city of Centerton Zoning Regulations (except that the period of non-use shall be six (6) months ). If more than one (1) mobile home is located on a single parcel of land, each unit shall be a separate nonconforming use. Thus, no additional units may be placed on the parcel, and no damaged or destroyed units may be replaced. Mobile homes may be replaced by manufactured homes or modular homes provided all requirements of the Zoning Regulations (including but not limited to district and area requirements) are complied with.

#### **14.08.05 Fine**

Any person, firm, or corporation violating any provision of this chapter shall upon conviction be deemed guilty of a misdemeanor and be fined in any sum not less than \$100.00 nor more than \$500.00, and each day that such violation continues shall be a separate punishable offense."

## CHAPTER 14.09 **WIRELESS COMMUNICATION TOWERS AND SMALL CELLS**

### **SECTIONS:**

- 14.09.01 Wireless and Communication Towers
- 14.09.02 Wireless Communications
- 14.09.03 Review and Construction: Administrative Staff Review
- 14.09.04 Small Cell Wireless Communications
- 14.09.05 Permitted Use; Height, Location, Design, Aesthetics, And Other Standards
- 14.09.06 Small Cell Application and Review Process
- 14.09.07 Exclusive Arrangements Prohibited
- 14.09.08 Local Authority
- 14.09.09 Appendix A: Guidance Images
- 14.09.10 Appendix B: Definitions
- 14.09.11 Appendix C: Recommended Plant Lists

### **14.09.01 WIRELESS COMMUNICATION TOWERS**

#### **Application and Zoning Requirements**

##### **A. Preamble and Adherence with Applicable Federal Laws and Regulations**

The City recognizes that wireless communication facilities (WCF), and the location of them, are regulated by federal law, and this ordinance is not intended to conflict with federal law, including the Federal Telecommunications Act of 1996, 47 USC Section 332, in any way. This ordinance has been adopted so that the location and installation of wireless communication facilities can be located and installed in a manner that best protects the health, welfare and safety of the citizens of Centerton, and seeks to regulate the location and installation only to the extent permitted by federal telecommunications law.

It is also specifically noted that the City has reviewed publicly owned property in Centerton, specifically property owned by the City, and has noted that in many instances the location and institutional and public uses of that property make location of telecommunications facilities appropriate. This ordinance seeks to recognize this fact by encouraging the location of such facilities on City owned property wherever appropriate.

##### **B. Placement of New Wireless Facilities or Communication Towers**

New Communication Towers shall be allowed by Conditional Use Permit only within all zoning districts with the exception of A-1-Agricultural, I-1- Light Industrial, and I-2-Heavy Industrial. Towers are allowed by right in A-1, I-1, and I-2 only under the following conditions:

- (1) The property meets current A-1, I-1, & I-2 specifications (in regard to minimum size and use) **and**

- (2) The tower is set back at least 100' **or** set back the distance of the tower height (as measured from the base of the tower) whichever is greater, from any existing residences or residentially zoned property.

### **C. Statement of Goals and Intent with regard to new communication towers**

- (1) It is the intent of the City of Centerton to address the following issues when permitting the siting of a newly proposed wireless facility or communication tower:
  - (a) Provision of adequate wireless services throughout the City to provide the Citizens, businesses, healthcare facilities, schools, and other institutions with the coverage and capacity needed.
  - (b) Provision for the Health Safety and Welfare of Citizens
  - (c) Working to minimize the impact to surrounding property owners through:
    1. Assurance of good tower aesthetics
    2. Requiring the screening of the tower base and accessory ground equipment
    3. Requiring attractive screening, and vegetation and landscaping where appropriate.
    4. Minimization of noise and light
    5. Assuring an attractive and minimally invasive tower structure
  - (d) Assurance of environmental compliance
  - (e) Creating an environment where multiple carriers can be placed on each tower and needless over-proliferation of towers throughout the City is avoided.

## **14.09.02 WIRELESS COMMUNICATIONS**

### **A. The following general requirements shall apply to all new wireless communications facilities.**

- (1) Noise requirements. Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air conditioning units no noisier than ordinary residential units or generators used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional muffler and any onsite fuel storage meet all applicable building codes.
- (2) Compliance with federal regulations. Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided before the issuance of the facility building permit, or after the facility's construction.
- (3) Lighting and signage. Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-

activated lighting may be used around the base of a tower and within the wireless communication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.

- (4) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.

**B. New towers. New wireless communications towers shall meet the following requirements:**

- (1) Type of towers allowed. New towers shall be limited to monopole type structures (with internal antennas) or stealth/camouflaged type tower structures, excluding towers which mimic trees or other vegetation.
- (2) Tower or antenna height limitations. Towers or tower structures shall be evaluated on an individual basis regarding the appropriate height of the requested tower or tower structure.
  - (a) Buffer zone. The minimum distance from the base of any tower to any residential dwelling unit shall be the tower height (as measured from the base of the tower) or the zone required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in a signed writing to the construction of said tower. This setback is considered a "buffer zone." In the event that an existing structure (i.e., existing water tower, building or pole) is proposed as a mount for a wireless communication facility, a buffer zone shall not be required.
  - (b) Camouflaging or stealth technology for new towers. If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designed to be camouflaged to the greatest extent practical including, but not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees, and other structures that may screen or partially screen the view of the tower from adjacent properties or rights-of-way.
  - (c) Color of towers. To the extent that any tower or antenna extends above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.
- (3) If a Conditional Use Permit is required by this Chapter for the placement of a new Communication Tower, then the applicant must proceed through the City of Centerton Conditional Use Permit process as prescribed in Section 14.04.14 Schedule of Uses. In addition to the Conditional Use Permit Criteria found within Section 14.04.14 Schedule of Uses, the following Information in this Section 14.09.01 is required to process new tower requests requiring a Conditional Use Permit.

- (a) Provide a map of the approximate geographic area that your project will serve.
- (b) Provide a map showing the approximate location of all other existing communication towers within the area and a written explanation as to why co-location is not possible on an existing tower structure. Describe your efforts to co-locate your facility on one of the poles or towers that currently exists or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers.
  - i. This paragraph does not apply to applicants who desire to construct a tower for the primary purpose of attracting other persons to collocate on the tower.
- (c) Provide a scaled site plan containing information showing the property boundaries, proposed tower lease area (if applicable), proposed tower (tower height, type, etc.), existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures, and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility.
- (d) Provide a letter stating why the proposed site was chosen.
  - 1. Submit a brief written statement describing how your proposed site and plan meet the City of Centerton's "Statement of Goals and Intent" (above).
  - 2. Each Goal should be addressed individually.
  - 3. The document should also include visual aspects, setbacks, and proximity of single-family residences.
  - 4. Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.
    - i) A sight line representation may be requested by Planning Staff or Planning Commission in situations where the placement of the tower is proposed in areas where potentially there may be a visual impact to surrounding properties. A sight line representation shall be drawn from four points 90° apart and 100 feet from the proposed tower. Each sight line shall be depicted in section, drawn at one-inch equals 40 feet. The sections shall show all intervening trees and buildings.

#### **14.09.03 REVIEW AND CONSTRUCTION: ADMINISTRATIVE STAFF REVIEW**

Requirements for administrative review process for new Communication Towers. If a Conditional Use Permit is required, then the conditional use permit must be granted by the Planning

Commission prior to proceeding through this administrative review per Section 14.09.02.B(3) above.

#### **A. Structural integrity and inspections of towers**

(1) If a conditional use permit for the tower is needed and approved, the applicant shall provide a complete set of plans for the proposed tower and a site plan of the property or proposed lease area.

##### **(a) Tower Plans**

1. Engineer Stamped Plans for the proposed Tower and an accompanying structural analysis.
2. Engineer stamped plans for the proposed tower foundation based on the local geotechnical information gathered for the specific site.
3. A statement that the tower meets or exceeds design criteria for federal requirements regarding the construction of the tower.

##### **(b) Site Plan**

1. Name & address of owner, applicant & surveyor.
2. Date, appropriate scale, and north arrow.
3. Vicinity map covering a minimum of one mile with a scale and north arrow indicating surrounding roads, municipal limit lines, growth area boundaries, state lines & county lines as applicable
4. Legal description of the property on which the tower is to be placed, with dimensions and angles sufficient to locate all lines. Property shall be located by Section, Township and Range, and tied to the nearest defined and referenced Section or Quarter Section Corner.
5. The precise location and dimensions of the proposed tower or existing tower as it is to be modified.
6. The location and identification of existing roads or access ways within and to the property (including proposed access easements).
7. The location and size of existing access and/or utility easements on or adjoining the property, or a note there are none.
8. The location of flood areas on the property or a note indicating there are none.
9. The location of USGS documented perennial and intermittent watercourses on or adjoining the property or a note indicating there are none.
10. The area set aside to accommodate future outbuildings and/or equipment pads to be placed on the property in the future in connection with the tower
11. The location of all personal residences within the height of the tower from the perimeter of the base of the tower.
12. The names of the owners of such residences within the buffer zone, being the height of the tower as measured from the base of the tower, and copies of their signed consent to the placement of the proposed tower (if applicable).

13. The existing topography on the property, as per existing U.S. Geological Services survey maps or other more current source
  14. A note describing any plat and deed restrictions, or a note indicating there are none.
- (c) If a wireless communication facility fails to comply with the requirements and criteria above and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have 90 days to bring such tower into compliance with such requirements and criteria. If the owner fails to bring such tower into compliance within 90 days, the City may terminate the owner's conditional use permit and/or cause the removal of such tower (at the owner's expense). In no instance shall this process prevent the City from taking whatever action to protect the public from imminent harm. Including but not limited to immediate removal of a tower.
- (d) By making application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by applicant which are located in the City. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.
- (2) Security fencing and anti-climbing device. Towers and equipment shall be enclosed by opaque fencing, eight (8) feet in height, and made of durable materials. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing," "High Voltage," or other pertinent information on the outside of the fence, unless it is decided that the goals of this ordinance would be better served by waiving these provisions in a particular instance. Barbed wire fencing or razor wire shall be prohibited, unless a variance is requested.
- (3) Vegetative screening requirements. Wireless communications facilities shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both.
- (a) Vegetative screening should be designed to visually screen the area by using groups of clustered vegetation to achieve a screen natural in appearance. The screened area may exclude access and utility easements.
- (b) In order to effectively screen the tower site, for every 25 linear feet of perimeter of the leased area, property line (or defined property used for the tower site), the following landscaping is required to be installed unless an alternative plan is approved by the Planning Official (see attached plant list for recommended varieties):

1. One (1) large tree
  2. Two (2) understory trees
  3. Five (5) large shrubs
- (c) The screened area should generally include a mixture of evergreen and deciduous vegetation types of varying heights; other styles of effective vegetative screening may be considered for approval if deemed adequate by the Planning Official. Depending on the setting and existing vegetation on or near the tower property or leased area, a landscape easement adjacent to the site/leased area may be required. If a landscape easement is needed, it must be at least a minimum of 15' in width.
- (d) If there is existing vegetation onsite or within close proximity that currently provides screening for the site, then the Planning Official may grant the applicant a waiver from the appropriate portions of the landscape screening requirements. Offsite landscape easements may be required to assure the existing vegetation persists.
- (e) A landscape plan depicting variety, sizes (upon planting), and proposed placement of all landscape materials shall be submitted with the application. All proposed or existing easements should also be shown (utility, access, rights of way, and landscape easements, etc.). If the applicant proposes to use existing onsite or nearby vegetation in lieu of required landscaping materials, then that existing vegetation must be shown on the plan.
- (f) Irrigation- shall not be required, but the owners shall be required to care for the planted vegetation and replace any vegetation that does not survive.
- (4) Setbacks from property lines. Wireless communication facilities shall meet current building setbacks as required by the applicable zoning districts unless greater setbacks are required by this section.

**B. Co-location on an existing tower or other appropriate structure.**

- (1) The Planning Official, following an administrative review without the requirement of an issuance of conditional use permit, may approve the following antenna installation.
- (a) Locating on existing structures. Installation of an antenna or antenna array on an existing structure other than a tower (such as a building, light pole, electric transmission tower, water tank, or other free-standing non-residential structure) provided the antenna or antenna array and its support are not more than 20 feet in height. The Planning Official may grant a variance of up to 10 additional feet in height when such additional height is necessary for improved functionality or safety and where the requirements of (D. Exemptions) have been accomplished.

- (b) Locating on existing towers. Additional antennas may be placed or upgraded upon any tower so long as such additional antenna would not violate any requirements of the conditional use permit or other provisions of the original approval. Antennas may be replaced by similar antennas at the same height and for the same basic usage as the antennas being replaced, however, a statement regarding the loading of the replacement equipment shall be submitted and the applicant shall certify that the loading of the proposed equipment shall be less than or equal to the existing. If no certification can be made, then a structural analysis for the tower and the proposed equipment shall be required.
- (c) For the purpose of co-location, the applicant must submit information from a licensed professional Engineer certifying the capacity of the tower for additional providers and a letter of intent from the applicant indicating their intent to share space.
- (d) Existing antennas may be replaced by updated antennas or equipment, however, a statement regarding the loading of the replacement equipment shall be submitted and the applicant shall certify that the loading of the proposed equipment shall be less than or equal to the existing equipment. If no certification can be made, then a structural analysis for the tower and the proposed equipment shall be required.

### **C. Other requirements.**

- (1) Wireless communications facilities placed on top of buildings. When a wireless communications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Stealth (RF Transparent) screening visually appropriate to the specific site should be explored as an effective compatibility tool.
- (2) Wireless communications facilities placed on sides of buildings. Antennas which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

### **D. Exemptions.**

- (1) Personal use. Towers for personal use which, including the height of all antenna arrays, are less than 50 feet in height from the ground and shall meet the current setbacks as required by zoning.
- (2) Temporary structures. Temporary structures designed to be used for not more than 14 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."

- (3) Existing towers. All existing towers may be replaced with the same type and height of tower structure as currently exists. All replacement towers shall comply with (A) and (B) regarding color of towers, structural integrity and inspections of towers, security fencing and anti-climbing device, and vegetative screening requirements.

All existing guyed towers shall also be subject to the following conditions:

- (a) A demolition permit shall be issued prior to a building permit being issued for the replacement tower;
  - (b) The demolition permit shall expire within 90 days and shall require the existing tower to be demolished within 90 days from issuance of the building permit for the replacement tower;
  - (c) The new tower shall be constructed as close as technically feasible to the existing tower;
  - (d) The guyed replacement structure may be increased in width to a maximum of 36 inches. Existing guyed towers over 36 inches shall not be increased in width with a replacement tower.
- (4) Emergency and utility towers and antennas. Towers and antennas under 35 feet in height used for 9-1-1 services and utility monitoring (gas, water, sewer, traffic lights, etc.).
- (5) Emergency services pole antennas and microwave dish antennas.
- (a) Mayoral determination. If sufficient information concerning gaps in vital emergency services radio coverage or microwave relay capability and the lack of any reasonable alternative is presented to the Mayor who concludes an exemption to the 150 foot height limitation or to a requirement that antennas must be mounted internal within a permitted cell tower may be made to ensure public safety, the Mayor may grant the following exemptions.
  - (b) Emergency services antenna. The Mayor may authorize the placement or extension of an emergency service antenna affixed to the top of a permitted cell phone tower as long and the antenna has a main supporting section diameter no larger than four inches.
  - (c) Emergency services microwave dish antenna. The Mayor may authorize the placement of an emergency services microwave dish antenna on the outside of a permitted cell phone tower as long as this dish antenna does not have a diameter more than four feet.

## **E. Municipal property availability**

- (1) The City should actively market its own property as locations for new wireless communications facilities where appropriate and existing structures as suitable co-location sites.
- (2) The City may not require the applicant to give preferential or priority consideration. The City may not impose on the applicant a requirement of first examination to municipal owned locations or other locations as owned or controlled by public type entities (schools, hospitals, libraries) over privately owned properties or locations.
- (3) The City may consider as a factor: The appropriate leasing and use of City property to house wireless communication facilities may lessen the overall impact to the community at large by returning a tangible benefit to partially offset any real or perceived impact, and that this benefit would not the community if the facility was located on private land.
  - (a) The lease amount for such facilities, either a co-location on an existing City owned structure, or a lease of City land that the applicant may build a new facility, should be charged per the fair market value of the location.
  - (b) As noted above, the review process is shortened and simplified when co-location on existing City or private structures is submitted by applicant.

## **F. Abandoned antennas and towers.**

- (1) At such time that all licensed carriers abandon or discontinue operation from a wireless communication facility for a continuous period of one year, the wireless communications facility shall be considered abandoned upon such discontinuation of operations. Upon abandonment or discontinuation of use, the carrier shall obtain the appropriate permits from the City Building Official to physically remove the wireless communications facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - (a) Removal of antenna, equipment shelters and security barriers from the subject property;
  - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
  - (c) Restoring the location of the wireless communications facility to its natural condition, except that any landscaping, grading, and subsurface construction shall remain in the after-condition.

## **14.09.04 SMALL CELL WIRELESS COMMUNICATION**

**A. Purpose.** The purpose of this Section is to provide policies and procedures for the placement of small wireless facilities, which will provide a public benefit consistent with the preservation

of the integrity, safe usage, and visual qualities of the City and comply with applicable state and federal laws, regulations, and guidelines.

**B. Intent.** In enacting this Chapter, the City is establishing uniform standards to address issues presented by small wireless facilities, including without limitation:

- (1) Health, safety, and welfare of citizens;
- (2) Limit interference with the use of streets, sidewalks, alleys, parkways, public utilities, public views, certain City corridors, and other public ways and places;
- (3) Limit the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic
- (4) Limit interference with the facilities and operations of facilities lawfully located in rights-of-way or public property;
- (5) Limit environmental damage, including damage to trees;
- (6) Respect the character of the neighborhoods in which facilities are installed by minimization of visual clutter and preservation of the character and aesthetics of areas in close proximity to small wireless communication facilities;
- (7) Facilitate the City's permitting process to encourage fair and meaningful competition;
- (8) Encourage collocation of antenna on existing facilities; and
- (9) Facilitate deployment of small cell facilities to provide the benefits of advanced wireless services to all citizens and organizations throughout the City. Municipalities recognize the economic and social value of data connectivity and desire to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities within the public rights-of-way in a manner that is:
  - (a) Safe;
  - (b) Compatible with and complementary to the provision of services by the municipality and others lawfully using the rights-of-way; and
  - (c) Consistent with the aesthetic standards of the municipality.

**C. Zoning and Use of Rights of Way by Wireless Provider.**

- (1) A wireless provider shall have the right, as a permitted use not subject to zoning review or approval, to locate, collocate, maintain, modify, operate, and replace small wireless facilities and to install, maintain, modify, and replace poles it owns or manages or, with the permission of the owner, a third party's pole, associated with a small wireless facility, along, across, upon, and under the right-of-way.
- (2) Small wireless facilities and associated poles shall be installed and maintained as to not obstruct or hinder the usual travel or public safety of the right-of-way or the usage of the right-of-way by utilities.
- (3) Therefore, applications to collocate a small wireless facility or install or modify an associated utility pole in the rights-of-way shall be treated as a permitted use in all

districts within the City but are not exempt from the following local regulations and review.

- (4) All wireless facilities not meeting the definition of a small wireless facility shall be subject to applicable local zoning and development requirements.

**D. Conflicts with State and Federal Laws.** In the event that applicable federal or state laws or regulations conflict with the requirements of this Chapter, the Wireless Services Provider shall comply with the requirements of this Chapter to the extent that its provisions are not preempted by, or do not conflict with, applicable federal or state laws or regulations.

#### **14.09.05 PERMITTED USE; HEIGHT, LOCATION, DESIGN, AESTHETICS, AND OTHER STANDARDS**

**A. Location.** While small cells facilities are permitted uses within all zoning districts within the City, deployment of small cell facilities within the City is subject to the standards set forth in this ordinance.

#### **B. Height**

- (1) Each new or modified pole installed in the right-of-way for the purpose of collocation of small wireless facilities shall not exceed the greater of:
  - (a) Fifty feet (50') in height above ground level; or
  - (b) Ten percent (10%) taller than the tallest existing pole in place in the same right-of-way as of September 1, 2019, within three hundred feet (300') of the new or modified pole.
- (2) A new small wireless facility in the right-of-way shall not extend more than ten percent (10%) above the existing structure on which it is located or fifty feet (50') above ground level, whichever is greater.
- (3) A wireless provider shall have the right to collocate a wireless facility and install, maintain, modify, and replace a pole that exceeds the height limits required under subsection (a) of this section along, across, upon and under the right-of-way, subject to this section and any applicable zoning regulations.

#### **C. Location and Design**

- (1) A wireless provider shall not install a small wireless facility or pole in a historic district without complying with the requirements of general application for structures within the historic district.

- (2) A wireless provider may replace decorative poles when necessary to deploy a small wireless facility so long as the replacement reasonably conforms to the design of the original decorative pole.

#### **D. Damage and repair: Replacements, Abandonment, Removal**

- (1)
  - (a) A wireless provider shall repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and return the right-of-way to its functional and aesthetic equivalence before the damage under the competitively neutral, reasonable requirements and specifications of the City.
  - (b) If the wireless provider fails to make the repairs required by the City within a reasonable time after written notice, the City may make those repairs and charge the applicable party the actual and reasonable documented cost, including overhead, of the repairs.
- (2)
  - (a) A wireless provider is not required to replace or upgrade an existing pole except for reasons of structural necessity or compliance with applicable codes.
  - (b) A wireless provider may, with the permission of the pole owner, replace or modify existing poles, but any such replacement or modification shall substantially conform to the design aesthetics of the pole being modified or replaced.
- (3)
  - (a) A wireless provider shall notify the City at least thirty (30) days before the wireless provider's abandonment of a small wireless facility.
  - (b) If the wireless provider fails to remove the abandoned small wireless facility within ninety (90) days after the notice, the City may undertake the removal and recover the actual and reasonable documented cost, including overhead, of the removal from the wireless provider, or its successors or assigns.
- (4)
  - (a) The City may order the removal of a small wireless facility or associated pole in the right-of-way that violates Ark. Code. Ann. §§ 23-17-505, § 23-17-506, or applicable codes.
  - (b) The City shall provide written notice of the violation to the owner of the small wireless facility at least thirty (30) days before removal to afford the owner the opportunity to conduct repairs or removal, or otherwise remedy the violation.
  - (c) If the City determines that a wireless provider's activity in a right-of-way under this subchapter creates an imminent risk to public safety, the City may provide written notice to the wireless provider and demand that the wireless provider address the risk.
  - (d) If the wireless provider fails to reasonably address the risk within twenty-four (24) hours of the written notice, the City may take or cause to be taken, action

to reasonably address the risk and charge the wireless provider the reasonable documented cost of the actions.

- (5)
  - (a) A wireless provider shall not collocate a small wireless facility or install, modify, or replace a pole in the right-of-way that:
    - 1. Materially interferes with the safe operation of traffic control equipment;
    - 2. Materially interferes with sight lines or clear zones for transportation or pedestrians;
    - 3. Materially interferes with compliance with the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, or similar federal or state standards regarding pedestrian access or movement; or
    - 4. Fails to comply with applicable codes.

#### **E. Collocation.**

- (1) This section applies to activities of a wireless provider collocating small wireless facilities on authority poles in the City's right-of-way or in a right-of-way controlled by the Arkansas Department of Transportation located within the City.
- (2)
  - (a) A person owning, managing, or controlling poles in the City or state right-of-way shall not enter into an *exclusive* arrangement with any person for the right to attach to the poles.
  - (b) A person who purchases or otherwise acquires a pole in the City or state right-of-way is subject to the requirements of this section.
- (3) The City shall allow the collocation of small wireless facilities on authority poles on nondiscriminatory terms and conditions using the process in the “permits” section of this code.
- (4) The rates to collocate on authority poles is provided in the “rates and fees” section of this code
- (5)
  - (a) As part of an application to collocate a small wireless facility on an authority pole, the wireless provider shall submit make-ready design drawings and work descriptions that enable the pole to support the requested collocation by the wireless provider, including pole replacement if necessary.
  - (b) The City may amend the make-ready design drawings and work to comply with applicable codes before the issuance of a permit to the extent reasonably necessary.
  - (c) The rates, fees, and terms and conditions for the make-ready work to collocate on an authority pole shall be nondiscriminatory, competitively neutral, and commercially reasonable and shall comply with this Chapter.

- (d) The City shall not require more make-ready work than required to meet applicable codes or industry standards nor may the fees for make-ready work include costs related to preexisting or prior damage or noncompliance.
- (6)
- (a) The City may require replacement of an authority pole only if the collocation would make the authority pole structurally unsound.
  - (b) The City may require that the replaced authority pole have the same functionality as the pole being replaced.
  - (c) If the authority pole is replaced, the City shall take ownership of the new pole and operate authority fixtures on the pole.
- (7)
- (a) Make-ready fees charged by the City may include the amount the authority pays a professional Engineer registered in Arkansas to review the wireless provider's make-ready work plans.
  - (b) Fees for make-ready work shall not include any revenue or contingency-based consultant's fees or expenses of any kind.
- (8) Within sixty (60) days of the receipt of the application filed to collocate on a City pole, the City shall elect to:
- (a) Perform the make-ready work necessary to enable the pole to support the requested collocation by a wireless provider and provide a good-faith estimate for the work, including pole replacement, if necessary; or
  - (b) Authorize the wireless provider to perform the make ready work.
- (9)
- (a) The City shall complete make-ready work it elects to perform, including any pole replacement, within sixty (60) days of written acceptance of the good faith estimate of the applicant.
  - (b) If the City, electing to perform the make-ready work, has not completed the work within sixty (60) days after the written acceptance and deposit of the good faith estimate by the applicant, the applicant may demand a return of any deposited funds and proceed with the make-ready work as described in subsection (e) of this section, using authorized, qualified contractors approved by the City with the authorization not to be unreasonably withheld, conditioned, or delayed.
- (10) The City or other applicable authority may reserve space on an authority pole for future public safety or transportation uses in a documented and approved plan in place at the time an application is filed.
- (a) A reservation of space shall not preclude placement of a pole or collocation of a small wireless facility.
  - (b) If replacement of the City's pole is necessary to accommodate the collocation of the small wireless facility and the future use, the wireless provider shall pay

for the replacement of the authority pole and the replaced pole shall accommodate future use.

## **F. Aesthetics.**

- (1) The aesthetic appearance of small wireless facilities and associated poles is regulated by the City to ensure coordinated, adjusted, and harmonious development, as provided in this section. The City may apply these requirements to areas of the City in which coordinated, adjusted, and harmonious development has been established through the use of overlay districts or historical districts which have been in existence at least ninety (90) days prior to the passage of this ordinance.
- (2) These aesthetic standards shall adhere to the following requirements:
  - (a) Reasonable, in that they are technically feasible and reasonably directed to avoiding or remedying unsightly or out-of-character deployments;
  - (b) No more burdensome than those applied to other types of utility and communications infrastructure deployments;
  - (c) Objective and published at least ninety (90) days in advance of the filing of an application under this Chapter;
  - (d) Any design or concealment measures are not considered a part of the small wireless facility for purposes of the size parameters in the definition of "small wireless facility"; and
  - (e) The City may deny an application for not complying with aesthetic requirements only if the City finds that the denial does not prohibit or have the effect of prohibiting the provision of wireless service.
- (3) The Board of Zoning Adjustment may:
  - (a) Hear appeals of the decision of the Administrative Officer in respect to the enforcement and application of the aesthetic standards, and may affirm or reverse, in whole or in part, the decision of the administrative officer.
    1. Decisions of the Administrative Officer shall be rendered to the applicant in writing; and
    2. An appeal must be filed within ten (10) days of the written decision of the Administrative Officer.
  - (b) Hear requests for variances from the literal provisions of the aesthetic standards and grant the variances only when it is necessary to avoid the prohibition of wireless service or otherwise comply with the law.
- (4) Decisions of the Board in respect to this section shall be subject to appeal only to a court of record having jurisdiction.
- (5) Equipment Enclosures:
  - (a) To the extent technically feasible, if the support structure is a pole, all radios and wireless communication equipment, except the antenna, shall be enclosed within an equipment cabinet and housed:

1. At the base of the support structure,
2. Pole mounted at a height and placement that will not interfere with pedestrian, cyclist, or vehicular movements, or
3. Below grade.

(b) Where underground utilities are required by the provisions of this Code or other City adopted regulations or codes, ancillary equipment related to the small wireless facility shall be placed in an underground vault to the greatest extent possible. Above ground equipment enclosures may be considered if they can be placed in a way that does not impede or jeopardize the safety or other utilization of the RIGHT-OF-WAY (ROW).

(6) Design: Consistent with the provisions of this section, a small wireless facility shall be installed using the following design approaches to the extent reasonable including without limitation the following:

(a) For location on newly proposed Wireless Support Structures, the following options are available:

1. New poles installed to support small wireless facilities shall be made of the same or similar material as existing poles in the immediate area unless the materials used in the existing poles are no longer allowable by the City; in which case they shall conform to the updated City Standards for utility poles within the immediate area.
2. In an area where other above ground utilities are present, the deployment of a new small cell facility shall be located on the same side of the street which the existing above ground utilities are located and a similar style utility pole (as those utilized by existing above ground utilities) may be utilized.
3. In an area where the City has required all electrical and communication lines to be placed underground by a date certain that is three (3) months before the submission of the application or where undergrounding is required after small wireless facilities have been installed, an explanation as to why collocation or use of an existing structure, remaining pole or replacement pole is not technically feasible shall be required. This shall apply to the location of all pole-attached utilities and shall include demonstration of a reasonable attempt to collocate or utilize an existing structure. A wireless provider may install a new pole in the designated area that otherwise complies with this section when it is not able to provide wireless service by collocating on an existing structure, remaining pole or replacement pole.
4. When a wireless provider applies to install a new pole in the right-of-way in an area zoned for residential use, the City may propose an alternative location in the right-of-way within one hundred feet (100') of the location stated in the application, and the wireless provider shall use the City's proposed alternative location unless the location imposes technical limits or significant additional costs.

- i. The wireless provider shall certify that it has made the determination in good faith, based on the assessment of a licensed Engineer, and the wireless provider shall provide a written summary of the basis for the determination.
5. The City may require wireless providers to comply with reasonable and nondiscriminatory horizontal spacing requirements of general application for new poles and ground-mounted small wireless facilities, but the requirements shall not prevent a wireless provider from serving any location.
6. For location on existing Pole Structures:
  - i. Stealth antennas and mounts (completely encased or screened antennas, when possible, to approximately match the color of the existing poles). In the event that some antennas cannot be covered due to their operational wavelength, the applicant shall provide proof of such to the City and the antenna shall be required to be painted, or otherwise treated, in a way that blends with the pole.
  - ii. Stealth base cabinet enclosures (completely encases base cabinet equipment to match the colors of the existing poles to the extent feasible). Base cabinet may be placed in any location on the lower portion of the pole but may not impede ADA accessibility of a sidewalk. The base cabinet may also be placed underground.
  - iii. The City shall not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements from existing small wireless facilities, poles, or wireless support structures.
7. For location on existing Building Structures:
  - i. New steeple, extension to existing steeple, and replacement steeple concealment structures,
  - ii. Chimney concealment structures,
  - iii. Chimney pot concealment structures,
  - iv. Rooftop façade extension concealment,
  - v. Rooftop cupola concealment,
  - vi. Rooftop screen concealment,
  - vii. Roof top pod concealment systems,
  - viii. Building side grid concealment structures,
  - ix. Building side screen concealment structures,
  - x. Rooftop or wall mounted lantern concealment structures.
8. Antenna arrays, cables, and other ancillary facilities used for providing the wireless service shall not be obtrusive or noticeably visible from adjacent properties or adjacent rights-of-way.
9. The color of the facility shall be compatible with that of the non-tower support structure. To the extent any small wireless facilities extend above the height of the vegetation buildings and utilities immediately surrounding it, they shall be painted in a non-reflective light gray, light blue, or other hue, which blends with the skyline and horizon.

10. Attachments which are ancillary to the antenna arrays mounted onto a non-tower support structure shall not project greater than three (3) feet, as measured horizontally, from the surface of the non-tower support structure and shall be painted or screened with materials that are a compatible color to the non-tower support structure. Cables that travel along the exterior of a non-tower support structure shall be closely connected to the structure creating a minimal appearance of gaps or loose wires. When possible, visible cables should be in conduit or otherwise covered in a material visually compatible in color to the support structure.
11. The general design of a small wireless facility shall be compatible to the streetscape and aesthetics of the surrounding area with respect to street furniture and lights, building façade designs, and area character.
12. Other design elements which by industry standards are considered stealth technology deployment may also be used.
13. Within enacted overlay district stealth concealment is required except when specifically identified by the applicant that such stealth concealment results in a material reduction in the functionality of the proposed small wireless facility.

**G. Signage.** The applicable provisions of this code regarding signage shall apply to all small wireless facilities.

**H. Illumination.** A small wireless facility shall not have lights on the facility unless the lights are required by other laws and consistent with the requirements of law or designed as an intended amenity of the support structure.

**I. Fencing.** A small wireless facility installed in the public right-of-way shall not be fenced.

**J. Use of Right-of-Way and indemnification.**

(1) The wireless provider shall fully indemnify and hold harmless the City and its officers, agents and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney's fees resulting from the installation, construction, repair, replacement, operation, or maintenance of poles, small wireless facilities, or attachments to City poles to the extent directly caused by the negligence of the wireless provider, its contractors, subcontractors and their officers, employees or agents.

(2) A permit from the City shall not create a property right or grant any authority to the owner of the small wireless facility to impinge upon the rights of others who may already have an interest in the right-of-way.

**K. Appendix to Section 14.09.05** Attached to this Ordinance as an Appendix to this Section are illustrations to provide guidance to applicants of aesthetic standards encouraged and preferred by the City in the installation of small wireless facilities and associated poles.

#### **14.09.06 SMALL CELL APPLICATION AND REVIEW PROCESS**

**A. Permit and Application.** A permit is required for the placement and construction of a small wireless facility. Approval of a permit shall require an application.

**B. Contents of Application.** The small wireless facility permit application shall be made by the Wireless Services Provider or an authorized agent. A permit application shall contain the following:

- (1) The applicant's name, address, telephone number and e-mail address;
- (2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
- (3) A general description of the proposed work. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters, including but not limited to sub-surface utilities, likely to be affected or impacted by the work proposed;
- (4) Authorization for any consultant acting on behalf of the Applicant to speak with the City, or a designee of the City;
- (5) Verification from an appropriate professional that the small wireless facility shall comply with all applicable codes;
- (6) Drawings and descriptions of the proposed facilities, non-tower support structures, and ancillary equipment;
- (7) Maps with the specific locations;
- (8) Geographic coordinates of the locations;
- (9) If the proposed location is a new pole, an explanation as to why collocation or use of an existing structure is not technically feasible. This shall apply to the location of all pole attached utilities and shall include demonstration of a reasonable attempt to collocate or use an existing structure, remaining pole or replacement pole;
- (10) If the applicant proposes to collocate on, or occupy any existing structure not owned by the applicant, a letter or written statement from the owner allowing the use; and
- (11) A description and substantiation of any requests for exceptions from the requirements of this Section.

**C. Batch Applications.** The City may require the applicant to file a separate application for any small wireless facility that is not of a substantially similar design to the others included in the application, or if submitted in a batch, the application must be sufficiently clear so that the City may determine whether one or more of the proposed facilities is not of a substantially similar design.

**D. Bond.** The City may require the applicant to post a bond as required for any open cut, sidewalk, curb and gutter or other public right of way work as set forth in the Centerton Municipal Code.

**E. Routine Maintenance and Replacement.**

- (1) An application shall not be required for:
  - (a) routine maintenance that does not expand the size or height of the small wireless facility; and
  - (b) the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight, and height.
- (2) Provided, however, on a location where the City or another provider has placed equipment or facilities, any routine maintenance or replacement that is done shall not occur until written notice of an intent to proceed is provided to the City.

**F. Review Procedure.**

- (1) The Planning Official shall review the application for compliance with these and other applicable laws and regulations. Review and approval shall be in accordance with timeframes established by federal and state law/policy and the following:
- (2) All applications shall be processed on a nondiscriminatory basis within:
  - (a) Sixty (60) days of receipt of an application for the collocation of a small wireless facility; and
  - (b) Ninety (90) days for an application to install, modify, or replace a pole on which a small wireless facility is or will be collocated.
- (3) Within ten (10) days of receiving an application, the Planning Official shall determine and notify the applicant in writing:
  - (a) Whether the application is complete; or
  - (b) If the application is incomplete, what specific information is missing.
- (4) If the application is incomplete, the applicant shall be allowed to resubmit the amended application without penalty or payment of any additional application fees, if resubmission occurs within thirty (30) days of notification.

- (5) The time frame for reviewing shall commence when the application is submitted but may be tolled upon notification of incompleteness. If the application is incomplete, the applicable time frame for reviewing will then continue when the missing information is provided by the applicant.
- (6) Once the application is determined to be complete, the Planning Official shall review the application and if the application meets the requirements and standards set forth in this section the application shall be granted, and a permit issued.
- (7) If the applicant is requesting an exception to any requirement, the standard of review shall be to determine if the exception is warranted due to an identifiable site-specific hardship or a technological challenge, and more specifically if the excepted requirement is:
  - (a) Not necessary or desirable for the protection of the surrounding property, public health, public safety, or general welfare; or
  - (b) Unreasonable as applied to the particular application.
- (8) The Planning Official may approve some or all of the requested exception, and advise the applicant in writing of the extent of approval and/or reasons for denial. At his/her discretion, the Planning Official may also submit the application to the Development Review Committee for input or comment.
  - (a) If the applicant believes the decision of the Planning Official to be in error, an appeal may be made to the Centerton Board of Zoning Adjustments.
  - (b) If the applicant accepts the decision of the Planning Official the application shall proceed with review and approval/denial.
- (9) The Planning Official shall have the authority to defer an exception request to the Board of Zoning Adjustment. The Board of Zoning Adjustment shall act upon the request in a timely manner. If the decision of the Board of Zoning Adjustment is in the affirmative, the permit shall be approved, provided all other review requirements are met. If not, the application shall be referred to the Planning Official for continued review.
- (10) If the Board of Zoning Adjustment denies any or all of the requested exception, the applicant may appeal the decision to a court of jurisdiction in accordance with state law.
- (11) The Planning Official or designee shall notify the applicant in writing of its final decision:
  - (a) Within sixty (60) days of receiving an application for the collocation of a small wireless facility; using an existing structure.
  - (b) Within ninety (90) days for an application to collocate a small wireless facility on a new structure.

1. These timelines may be tolled only by mutual agreement between the applicant and the City.
  - (c) If the application is approved, a permit shall be issued;
  - (d) If the application is denied, the Planning Official shall specify, in writing, the basis for denial, citing specific code provisions from federal, state, or local law as to why the application was denied.
  - (e) Notwithstanding the initial denial, the applicant may cure any deficiencies identified by the Planning Official within thirty (30) days of the denial without paying an additional application fee. The Planning Official shall approve or deny the revised application within thirty (30) days of receipt of the amended application and its review shall be limited to the deficiencies specified in the original notice of denial.
  - (f) If a decision on an application is not made within the applicable time frame, the application shall be deemed approved ten (10) days after written notice is provided by the applicant to the City that the time-period for acting on the application has lapsed.
- (12) If after commencement of construction but before construction is complete for an approved permit, circumstances unforeseen at the time of approval arise which make continued construction unsafe or impracticable, the applicant may request an amendment to the application or plan by filing a request to amend the approved application. The applicant shall cease work, and the procedure for the amendment request shall proceed in the same manner as if it were a new application under this section. There is no application fee for an amendment request.

## **G. Prohibitions and Work Requirements**

- (1) Within sixty (60) days of written notice, the owner of the small wireless facility shall:
  - (a) Remove all graffiti on the facility at his or her expense; and
  - (b) Repair or replace any damaged equipment.
- (2) Facilities located in the public right-of-way shall not materially visually obstruct traffic signals or signage and shall be maintained in a manner that does not materially interfere with public safety equipment.
- (3) The owner shall employ due care during the installation, maintenance or any other work in the RIGHT-OF-WAY (ROW), shall comply with all safety and Public ROW protection requirements of all applicable local, state, and federal laws. The owner shall restore, repair and/or replace any portion of the public improvements in the ROW that are damaged or disturbed by the owner's work or small wireless facilities.
- (4) Unless otherwise specified in the permit, the owner shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control

plan in accordance with the Uniform Manual of Traffic Control Devices. The owner shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the City.

- (5) If use of the right-of-way on which the Small Wireless Facility is located is necessary for a construction or improvement project undertaken by the City of Centerton or on its behalf, the Small Wireless Facility shall be relocated. Notice of such relocation shall be provided by the City as soon practicable and at least ninety (90) days before the deadline for completing the relocation. The City shall not bear any expense of any necessary relocation.
- (6) A small wireless facility shall not interfere with City and public safety communication systems and shall comply with all FCC regulations governing interference.
- (7) A guy wire or other support wire shall not be used in connection with an antenna, antenna array, or a non-tower support structure except when used to anchor the antenna, antenna array, or non-tower support structure to an existing building or ground to which such antenna, antenna array, or non-tower support structure is attached.
  - (a) The owner of a small wireless facility that is not in service or use for more than six (6) months shall disassemble and remove the facility.

#### **H. Fees and rates:**

- (1) For the co-location of a small wireless facility on an existing pole or structure: One Hundred Dollars (\$100.00) non-recurring application fee.
  - (a) Additionally, except as described in A.C.A. § 23-17-510(e), a wireless provider shall pay the City compensation for use of the right-of-way, an annual rate of thirty dollars (\$30.00) per small wireless facility. The annual rate shall be paid to the City by January 31<sup>st</sup> of the following year.
  - (b) A wireless provider shall pay the City compensation for collocation of small wireless facilities on City poles an annual rate of Two Hundred and Forty Dollars (\$240.00) for each City pole.
- (2) For the installation of a small wireless facility and a pole: Two Hundred Fifty Dollars (\$250.00) for the installation, modification, or replacement of a pole together with the collocation of an associated small wireless facility in the right-of-way.
  - (a) Additionally, except as described in Ark. Code. Ann. § 23-17-510(e), a wireless provider shall pay the City compensation for use of the right-of-way, an annual rate of thirty dollars (\$30.00) per small wireless facility. The annual rate shall be paid to the City by January 31<sup>st</sup> of the following year.
- (3) If the application is for multiple facilities, the fee is One Hundred Dollars (\$100.00) (non-recurring application fee) for each additional facility.

(4) Exceptions:

- (a) A wireless provider is not required to pay an authority compensation for micro-wireless facilities that are suspended on cables strung between existing utility poles in the right-of-way as long as the wireless provider compensates the authority through other licenses or franchises held directly or through one (1) of the wireless provider's affiliates for the placement of the suspension cables in the right-of-way.

#### **14.09.07 EXCLUSIVE ARRANGEMENTS PROHIBITED**

- A. Non-exclusivity.** The City shall not enter into an exclusive arrangement with a person for use of the right-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of poles for the collocation.

#### **14.09.08 LOCAL AUTHORITY**

- A. Exercise of Zoning Authority.** Subject to the provisions of the Small Wireless Facility Deployment Act codified at A.C.A. § 23-17-501 et seq. and applicable federal law, the City may continue to exercise zoning, land use, planning, and permitting authority within its territorial boundaries with respect to wireless support structures, including the enforcement of applicable codes.
- B. Interior Installations.** The City shall not have or exercise any jurisdiction or authority over the design, Engineering, construction, installation, or operation of a small wireless facility located in an interior structure or upon the site of a campus, stadium, or athletic facility not owned or controlled by the City, other than to require compliance with applicable codes.

## **14.09.09 APPENDIX A: GUIDANCE ILLUSTRATIONS.**

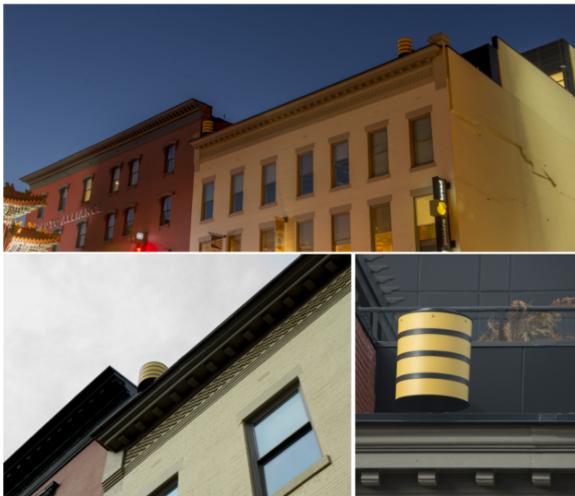
Examples of stealth building attachments.



APPLICATION: Roof Attached Chimney | LOCATION: Sarasota Springs, New York  
DESCRIPTION: 3' wide, 6' tall, 2' deep



APPLICATION: Chimney Pot | LOCATION: Sarasota Springs, New York  
DESCRIPTION: 3' tall, 1'-9" O.D.



APPLICATION: Lanterns | LOCATION: Washington, D.C.  
DESCRIPTION: 2'-8" tall, 2' O.D.



APPLICATION: Grid Assemblies | LOCATION: Silver Spring, Maryland  
DESCRIPTION: 4' wide, 9' tall



APPLICATION: Ballasted Chimney | LOCATION: Frederick, Maryland  
DESCRIPTION: 2' wide, 3' tall, 4' deep



APPLICATION: Rooftop Cupola | LOCATION: Eidersburg, Maryland  
DESCRIPTION: 3' square, 9' tall

Examples of stealth pole attachments for small wireless facilities.



APPLICATION: Light Poles | LOCATION: Pittsburgh, Pennsylvania  
 DESCRIPTION: 30' shown - fully customizable (including pole, base, access doors, equipment, lights, etc.)



APPLICATION: Banner Light Poles | LOCATION: University, Mississippi  
 DESCRIPTION: 25' shown - fully customizable (including pole, base, access doors, equipment, lights, banners etc.)



APPLICATION: StealthSkin™ Topper | LOCATION: Sewickley, Pennsylvania  
 DESCRIPTION: 8' tall radome shown, available in a 18" diameter and up to 12' tall with a min. pole size of 5" and max. pole size of 14"



APPLICATION: STEALTH® Base Cabinet Enclosure  
 DESCRIPTION: Fully customizable (including size, shape, color, ventilation, etc.)  
 \*patent pending



APPLICATION: Custom Pole Options  
 DESCRIPTION: Fully customizable (including pole, base, access doors, equipment, lights, etc.)

## **14.09.10 APPENDIX B: DEFINITIONS**

"***Affiliate***" means an entity that directly or indirectly controls, is controlled by, or is under common control with another party;

"***Antenna***" means communications equipment that transmits or receives an electromagnetic radio frequency signal in the provision of wireless service;

"***Antenna equipment***" means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and when collocated on a structure is mounted or installed at the same time as the antenna.

(A) "Antenna equipment" does not include:

- (1) The structure or improvements on, under, or within which the equipment is collocated; or
- (2) Wireline backhaul facilities, coaxial or fiber optic cable that is between structures, or coaxial or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna;

"***Antenna facility***" means an antenna and associated antenna equipment;

"***Applicable codes***" means uniform electrical reliability, building, fire, electrical, plumbing, or mechanical codes, as adopted by a recognized national code organization, or local amendments to the codes that are of general application, or local ordinances that are of general application, that address public health, safety, or welfare and are consistent with this subchapter;

"***Applicant***" means a person who submits an application as or on behalf of a wireless provider;

"***Application***" means a request submitted by an applicant to an authority for a permit:

- (A) To collocate small wireless facilities; or
- (B) To install, modify, or replace a pole on which a small wireless facility is or will be collocated, in the right-of-way;

"***Authority***" means the City.

"***Authority pole***" means a pole owned, managed, or operated by or on behalf of an authority;

"***Collocate***" or "***collocate on***" means the placement, mounting, replacement, or modification of a small wireless facility on, or of ground-mounted antenna equipment adjacent to, a structure.

- (A) "Collocate" or "collocate on" includes collocated ground-mounted antenna equipment as a small wireless facility if it meets the requirements of Ark. Code. Ann § 23-17-503(25)(A)(iii)-(vi) and the associated facilities on the adjacent structure meet the requirements of A.C.A. § 23-17-503(25)(i)-(vi);
- (B) "Collocation," Collocation is defined as placing an antenna on any existing structure, regardless of whether that structure already has wireless equipment on it, or whether it has been zoned for placing that equipment.

**"Communications service"** means:

- (A) A cable service, as defined in 47 U.S.C. § 522(6), as it existed on January 1, 2019;
- (B) A telecommunications service, as defined in 47 U.S.C. § 153(53), as it existed on January 1, 2019;
- (C) An information service, as defined in 47 U.S.C. § 153(24), as it existed on January 1, 2019; or
- (D) Wireless service;

**"Communications service provider"** means:

- (A) A cable operator, as defined in 47 U.S.C. § 522(5), as it existed on January 1, 2019;
- (B) A provider of information service, as defined in 47 U.S.C. § 153(24), as it existed on January 1, 2019;
- (C) A telecommunications carrier, as defined in 47 U.S.C. § 153(51); or
- (D) A wireless provider;

**"Control"** means the direct or indirect:

- (A) Ownership of at least fifty percent (50%) of the equity;
- (B) Ability to direct at least fifty percent (50%) of voting power; or
- (C) Ability otherwise to direct management policies;

**"Controlled-access facility"** means a highway or street described in A.C.A. § 27-68-102;

**"Decorative pole"** means an authority pole that is specifically designed and placed for aesthetic purposes and on which limited appurtenances or attachments, such as a small wireless facility, lighting, specially designed informational or directional signage, or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory City rules or codes;

**"Day"** Calendar day unless there is a time frame for the City to respond to a request and the last day to respond ends on a weekend, holiday, or time when, all but City emergency services, are closed due to weather or some unforeseen situation.

**"Facility"** means an antenna facility or a structure that is used for the provision of wireless service;

**"Fee"** means a one-time, nonrecurring charge;

**"Historic district"** means a group of buildings, properties, or sites that are either:

- (A) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register of Historic Places, according to Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, 47 C.F.R. Part 1, Appendix C, as it existed on January 1, 2019;
- (B) A historic district designated under the Historic Districts Act, § 14-172-201 et seq.; or
- (C) A historic district otherwise designated under a local ordinance as of January 1, 2019;

**"Micro-wireless facility"** means a wireless facility that:

- (A) Is not larger in dimension than twenty-four inches (24") in length, fifteen inches (15") in width, and twelve inches (12") in height;
- (B) Has an exterior antenna that is no longer than eleven inches (11"); and
- (C) Is not placed any farther than ten feet (10') down the span as measured from the side of the pole;

**"Permit"** means an authorization, written or otherwise, required by an authority to perform an action or initiate, continue, or complete a project for the deployment of wireless service at a specified location;

**"Person"** means an individual, corporation, limited liability company, partnership, association, trust, authority, or other entity or organization;

**"Pole"** means a pole in a right-of-way that may be used by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for collocation of small wireless facilities.

"Pole" does not include a wireless support structure or an electric transmission structure;

**"Rate"** means a recurring charge;

**"Right-of-way"** means an area on, below, or above a public utility easement, roadway, highway, street, sidewalk, alley, or similar property. Such areas are formally owned by the City or used as prescriptive easements.

"Right-of-way" does not include a federal interstate highway, controlled-access facility, or a public utility easement that does not authorize the deployment sought by the wireless provider;

**"Small wireless facility"** means a wireless facility that meets all of the following specifications:

- (A) The facility:
  - (1) Is mounted on a structure fifty feet (50') or less in height, including the antennas;
  - (2) Is mounted on a structure no more than ten percent (10%) taller than other adjacent structures; or
  - (3) Does not extend an existing structure on which it is located to a height of more than fifty feet (50') or by more than ten percent (10%), whichever is greater;
- (B) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet (3 cu. ft.) in volume;
- (C) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than twenty-eight cubic feet (28 cu. ft.) in volume;
- (D) The facility does not require antenna structure registration under 47 C.F.R. Part 17, as it existed on January 1, 2019;
- (E) The facility is not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as it existed on January 1, 2019; and (vi) The facility does not result in human exposure

to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as it existed on January 1, 2019.

"*Small wireless facility*" does not include:

- (1) The structure or improvements on, under, or within which the equipment is located or collocated or to which the equipment is attached; and
- (2) Any wireline backhaul facility or coaxial or fiber optic cable that is between wireless support structures or utility poles, or that is otherwise not immediately adjacent to or directly associated with a particular antenna;

"**Structure**" means a pole or wireless support structure, whether or not it has an existing antenna facility, that is used or to be used for the provision of wireless service;

"**Technically feasible**" means that by virtue of Engineering or spectrum usage the proposed placement for a small wireless facility, or its design, concealment measures, or site location, can be implemented without a material reduction in the functionality of the small wireless facility;

"**Utility Pole**" A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control signage, or a similar function regardless of ownership. Such term shall not include structures supporting only Wireless Facilities.

"**Wireless Facility**" Equipment at a fixed location that enables wireless communications between user equipment and a communication network, including: (i) equipment associated with wireless communications; (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.

"**Wireless infrastructure provider**" means a person or an affiliate thereof, including a person authorized to provide communications service in the state, that builds or installs facilities for the provision of wireless service, but that is not a wireless service provider;

"**Wireless provider**" means a wireless infrastructure provider or a wireless service provider;

"**Wireless service**" means any service using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public;

"**Wireless service provider**" means a person who provides wireless service;

"**Wireless support structure**" means a structure, including:

- (A) A monopole;
- (B) A tower, either guyed or self-supporting;
- (C) A billboard;

- (D) A building; or
- (E) Any other existing or proposed structure designed to support or that is capable of supporting small wireless facilities, other than a structure designed solely for the collocation of small wireless facilities.

*"Wireless support structure"* does not include a pole

"Wireline backhaul facility" means an aboveground or underground facility used to transport communications services from a wireless facility to a network.

#### **14.09.11 APPENDIX C: RECOMMENDED PLANT LISTS**

(1) Large trees.

| <b>Common Name</b>   | <b>Scientific Name</b>                 |
|----------------------|--|
| American Beech       | <i>Fagus grandifolia</i>               |
| American Holly       | <i>Ilex Opaca</i>                      |
| American Hophornbeam | <i>Ostrya virginiana</i>               |
| Baldcypress          | <i>Taxodium distichum</i>              |
| Bitternut Hickory    | <i>Carya cordiformis</i>               |
| Black Oak            | <i>Quercus velutina</i>                |
| Black Walnut         | <i>Juglans nigra</i>                   |
| Bur Oak              | <i>Quercus macrocarpa</i>              |
| Chinese Pistache     | <i>Pistacia chinensis</i>              |
| Chinkapin Oak        | <i>Quercus muehlenbergii</i>           |
| Crape Myrtle         | <i>Lagerstroemia indica</i>            |
| Frontier Elm         | <i>Ulmus carpinifolia x parvifolia</i> |
| Goldenrain Tree      | <i>Koelreuteria paniculate</i>         |
| Japanese Zelcova     | <i>Zelcova serrata</i>                 |
| Jefferson Elm        | <i>Ulmus americana 'Jefferson'</i>     |
| Lacebark Elm         | <i>Ulmus parvifolia</i>                |
| Littleleaf Linden    | <i>Tilia cordata</i>                   |
| Northern Red Oak     | <i>Quercus rubra</i>                   |
| Osage Orange         | <i>Maclura pomifera</i>                |
| Pecan                | <i>Carya illinoensis</i>               |
| Prospector Elm       | <i>Ulmus wilsoniana</i>                |
| River Birch          | <i>Betula nigra</i>                    |
| Shagback Hickory     | <i>Carya ovata</i>                     |
| Shingle Oak          | <i>Quercus imbricaria</i>              |
| Shumard Oak          | <i>Quercus shumardi</i>                |
| Silver Linden        | <i>Tilia tomentosa</i>                 |

|                   |                                |
|-------------------|--------------------------------|
| Southern Magnolia | <i>Magnolia grandiflora</i>    |
| Southern Red Oak  | <i>Quercus falcate</i>         |
| Sugarberry        | <i>Celtus laevigata</i>        |
| Swamp White Oak   | <i>Quercus bicolor</i>         |
| Sycamore          | <i>Platnus occidentalis</i>    |
| Tuliptree         | <i>Liriodendron tulipifera</i> |
| Turkish Filbert   | <i>Corylus colurna</i>         |
| Water Oak         | <i>Quercus nigra</i>           |
| White Oak         | <i>Quercus alba</i>            |
| Willow Oak        | <i>Quercus phellos</i>         |

(2) Small/understory trees.

| <b>Common Name</b>    | <b>Scientific Name</b>                   |
|-----------------------|--|
| American Smoketree    | <i>Cotinus obovatus</i>                  |
| Cherry                | <i>Prunus serrulata</i>                  |
| Crabapple             | <i>Malus species</i>                     |
| Flowering Dogwood     | <i>Cornus florida</i>                    |
| Fringe Tree           | <i>Chionanthus virginicus</i>            |
| 'Little Gem' Magnolia | <i>Magnolia grandiflora</i> 'Little Gem' |
| Natchez Crapemyrtle   | <i>Lagerstroemia indica</i> 'Natchez'    |
| Oklahoma Redbud       | <i>Cercis reniformis</i> 'Oklahoma'      |
| Oriental Arborvitae   | <i>Platyclusus orientalis</i>            |
| Possumhaw             | <i>Ilex deciduas</i>                     |
| Saucer Magnolia       | <i>Magnolia x soulangiana</i>            |
| Serviceberry          | <i>Amelanchier arborea</i>               |
| Star Magnolia         | <i>Magnolia stellata</i>                 |
| Sweet Bay Magnolia    | <i>Magnolia virginiana</i>               |
| Yaupon Holly          | <i>Ilex vomitoria</i>                    |

(3) Shrubs.

| Common Name             | Scientific Name                                  |
|-------------------------|--|
| Boxwood                 | <i>Buxus sinica var. insularis 'Wintergreen'</i> |
| Butterfly Bush          | <i>Buddlei davidii</i>                           |
| Chokeberry              | <i>Aronia species</i>                            |
| Compact Japanese Holly  | <i>Ilex crenata 'Compacta'</i>                   |
| Cotoneaster             | <i>Cotoneaster species</i>                       |
| Dwarf Yaupon Holly      | <i>Ilex vomitoria (dwarf cultivars)</i>          |
| Elderberry              | <i>Sambucus nigra</i>                            |
| English Laurel          | <i>Prunus laurocerasus</i>                       |
| Fothergilla             | <i>Fothergilla gardenia</i>                      |
| Foster's Holly          | <i>Ilex attenuata 'Fosteri'</i>                  |
| Fragrant Sumac          | <i>Rhus aromatic 'Gro- Low'</i>                  |
| Glossy Abelia           | <i>Abelia grandiflora</i>                        |
| Hydrangea               | <i>Hydrangea species</i>                         |
| Inkberry Holly          | <i>Ilex glabra</i>                               |
| Mugo Pine               | <i>Pinus mugo</i>                                |
| Nellie R. Stevens Holly | <i>Ilex 'Nellie R. Stevens'</i>                  |
| Pieris                  | <i>Pieris species</i>                            |
| Pyracantha              | <i>Pyracantha species</i>                        |
| Seagreen Juniper        | <i>Juniperus X pfitzeriana 'Sea Green'</i>       |
| Spiraea                 | <i>Spiraea species</i>                           |
| Summersweet             | <i>Clethra alnifolia</i>                         |
| Twig Dogwood            | <i>Cornus sericea</i>                            |
| Viburnum                | <i>Viburnum species</i>                          |
| Weigela                 | <i>Weigela species</i>                           |
| Yew                     | <i>Taxus species</i>                             |
| Yucca                   | <i>Yucca species</i>                             |

## **CHAPTER 14.20 APPENDIX**

14.20.01      Table 14.04.01 – Residential Area & Setback Standards

**TABLE 14.20.01 RESIDENTIAL AREA & SETBACK STANDARDS**

| Zoning Category  | R3-SF   | R3-D  | R3- MF   | R4-MF   |   |
|--|---|---|--|---|---|
|  | MEDIUM-HIGH DENSITY SINGLE FAMILY DETACHED            | MEDIUM-HIGH DENSITY TWO-FAMILY (DUPLEX) 2 units/structure (one structure/lot) | MEDIUM-HIGH DENSITY MULTIFAMILY maximum of 4 units/structure (one structure/lot) | HIGH DENSITY MULTI-FAMILY 18 units/acre   |   |
| Density/ Acre  | maximum 6 units/acre                                  | maximum 7 units/ acre   | maximum 8 units/acre   | 18 units/acre max<br>(Additional density may be considered via the PUD process, Sec. 14.04.12)  |   |
| <b>Minimum lot size</b>  |   |   |  |   |   |
| Single Family Detached   | 6,000 sf  | 6,000 sf  | 6,000 sf   | NP  |   |
| Two Family units   | NP  | 8,000 sf,<br>4,000 sf/dwelling unit   | 8,000 sf,<br>4,000 sf/dwelling unit  | 6,000 sf per duplex   |   |
| Three- Four Family units   | NP  | NP  | 10,000 sf/ first 3 units,<br>12,000 sq ft/ 4 units                               | 8,000 sq ft/ first 3 units;<br>4 units, a lot area ratio equal to 18 units/acre maximum   |   |
| Five Family units and greater  | NP  | NP  | NP   | 5+ units, a lot area ratio equal to 18 units/acre maximum   |   |
| Twin Homes (single-family attached)  | NP  | NP  | NP   | NP  |   |
| Row Houses (RTH-5) zero lot line, 3-5 units (single-family attached)   | NP  | NP  | NP   | NP  |   |
| <b>Height and Width Requirements</b>   |   |   |  |   |   |
| Max Building Height- Residential   | 35' or 2 stories                                      | 35' or 2 stories  | 35' or 2 stories   | 45' or 3 Stories *<br>Additional height or stories may be considered via the PUD process (Sec. 14.04.12). The Fire Official will determine if adequate fire equipment is available when determining the maximum height or number of stories allowed |   |
| Max Building Height- Assembly  | 40'   | 40'   | 40'  | 45' or 3 Stories *<br>Additional height or stories may be considered via the PUD process (Sec. 14.04.12). The Fire Official will determine if adequate fire equipment is available when determining the maximum height or number of stories allowed |   |
| Lot Width Minimum  | 60'   | 80'   | 80'  | 2-4 units<br>80'  | 5+ units<br>100'  |
| <b>Setbacks for 1 and 2 Story Structures**</b>   |   |   |  |   |   |
| Front Setback (Measured from MSP ROW)  | 25'   | 25'   | 25'  | 25'   | 35'   |
| Side Setback   | 7'  | 7'  | 10'  | 10'   | 20'   |
| Street Side Setback (Measured from MSP ROW)  | 25'   | 25'   | 25'  | 25'   | 35'   |
| Rear Setback   | 20'   | 20'   | 20'  | 25'   | 35'   |
| Setbacks for Assembly Structures (all sides)<br>All Street side setbacks shall be measured from the MSP ROW      | 35'   | 35'   | 35'  | 35'   | 35'   |
| <b>Setbacks for 3 Story Structures**</b>   |   |   |  |   |   |
|  |   |   |  | 2-4 units   | 5+ units  |
| Front Setback (Measured from MSP ROW)  | NA  | NA  | NA   | 25'   | 45'   |
| Side Setback   | NA  | NA  | NA   | 15'   | 30'   |
| Street Side Setback (Measured from MSP ROW)  | NA  | NA  | NA   | 25'   | 45'   |
| Rear Setback   | NA  | NA  | NA   | 30'   | 45'   |
| <b>Maximum Building Coverage Area (structures)</b>   |   |   |  |   |   |
| Maximum Building Footprint Coverage Area (for structures only )  | 50%   | 50%   | 50%  | 50%   |   |
| <b>Setbacks for Non-Residential Accessory Structures (cannot be located within easements or MSP planned ROW)</b> |   |   |  |   |   |
| Front Setback (Measured from MSP ROW)  | Not allowed, must be located behind Primary Structure |   |  |   |   |
| Side Setback   | 7' permanent<br>No minimum for portable               | 7' permanent<br>No minimum for portable                                       | Not allowed, must be located behind Primary Structure                            | Not allowed, must be located behind Primary Structure   | subject to the same setbacks as primary structure   |
| Street Side Setback (Measured from MSP ROW)  | Not allowed, must be located behind Primary Structure | Not allowed, must be located behind Primary Structure                         | Not allowed, must be located behind Primary Structure                            | Not allowed, must be located behind Primary Structure   | subject to the same setbacks as primary structure   |
| Rear Setback   | 7' permanent<br>No minimum for portable               | 7' permanent<br>No minimum for portable                                       | 10'  | 10'   | 7'  |
| Max Height   | 16'   | 16'   | 16'  | 16'   |   |
| Structure Type allowable   | permanent and portable                                | permanent and portable  | permanent only   | permanent only  | permanent only  |
| Pools (in-ground and above-ground)   | 10'- Rear<br>7'- Side                                 | 10'- Rear<br>7'- Side   | 10'- Rear<br>10'- Side   | 10'- Rear<br>10'- Side  | Pool - minimum of 30' minimum setback,<br>Pool decking area - minimum of 10' setback<br>(may be subject to a greater setback due to Residential Compatibility Standards if adjacent to a triggering property) |

\* Fire Code regulations may require greater setback distances or fewer allowable stories than those given in this chart

\*\* Setbacks for development in R4-MF may vary when adjacent to "Triggering Property" as defined by City Ordinance. "Triggering Properties" include: Properties zoned SF exclusive Zones as well as property occupied by a single-family dwelling unit that is a use permitted by right in the zoning district in which it is located.