

# **CLARKSVILLE, ARKANSAS**

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## **ZONING CODE**

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Ordinance 2016-742  
April 11th, 2016



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## ARTICLE 1. PURPOSE AND APPLICATION

**Section 1.1 Citation:** This Code is known and may be cited as the Clarksville Zoning Code, in accordance with Arkansas Code Annotated §§ 14-56-401 et. seq.

**Section 1.2 Purpose:** The purpose of the Zoning Code is to implement the provisions of the Comprehensive Development Plan for the City of Clarksville and to promote and protect the general health, safety, and welfare of the citizens of Clarksville.

**Section 1.3 Nature And Application:** The Zoning Code divides the city into separate *zoning districts*. Each of these *districts* have standards that govern *lot coverage, building height, area, bulk, building location, and building size*. They also govern *open space* and land use, *buildings, and structures*. These standards shall be minimum requirements in each *district*, and are designed to promote public health, safety, comfort, convenience, and general welfare.

Unless expressly and directly allowed in this Code, all use and construction of land and *buildings* must conform to the zoning *district* requirements where the *building* or land is located. All provisions of this Code must be followed. These rules apply to the use of land, *buildings, structures, and other improvements* as well as to the assembly, erection, construction, moving, alteration, enlargement, or rebuilding of any *building, structure, or improvement*.

All subdivision of land must conform to the minimum size and area regulations of this Code.

**Section 1.4 Completion of Existing Buildings:** No change to the plans, construction, or designated *building* use will be required for a *building* under construction at the time this Zoning Code was adopted. This also applies to any *building* permit issued within 30 days before the adoption of this Zoning Code. However, construction must be started within 60 days following the adoption of this Code.

**Section 1.5 Illegal Lot or Yard Reduction:** The required *lot* or *yard* areas for an existing or new *building* may not be reduced or be allowed to count toward the required *lot* or *yard* area for another *building* or use. The improper reduction of a *lot* or *yard* area for a *building* or use is a violation of this Code and subject to penalties.

## ARTICLE 2. ZONING DISTRICTS AND BOUNDARIES

**Section 2.1 Zoning Districts Established:** The City is divided into the following Zoning *Districts*:

R-1	Single Family Residential
R-2	Low Density Residential
R-2 (AH)	Affordable Housing
R-3	Medium Density Residential
R-4	Manufactured Home Residential
R-O	Residential Office
C-1	Central Business District
C-2	Neighborhood Commercial and Quiet Business
C-3	Highway Commercial
I-1	Light Industrial
I-2	General Industrial
PUD	Planned Unit Development
A-1	Agricultural District

**Section 2.2 Zoning Districts Map:** The location and boundaries of the Zoning *Districts* are shown on a map designated as the “Official Zoning Map.” The map and all its contents are a part of the Zoning Code and may be called the Zoning District Map or the Official Zoning Map in this code. The Official Zoning Map is kept and maintained by the City Clerk at City Hall. It is available for review and access by the public during the normal business hours of City Hall.

**Section 2.3 Interpretation of District Boundaries:** The following rules apply when boundary of a zoning *district* shown on the Official Zoning Map is unclear or uncertain:

- 1) Boundaries that appear to follow the centerline of a *street*, highway, or *alley* shall be interpreted to follow those centerlines.
- 2) Boundaries that appear to follow a platted *lot line* shall be interpreted to follow that *lot line*.
- 3) Boundaries that approximately follow the city limits shall be interpreted to follow the city limits.
- 4) Boundaries that appear to follow a railroad line shall be interpreted to follow the midway line of the railroad tracks.
- 5) Boundaries that appear parallel to any feature mentioned in the list shall be interpreted as such.



6) For situation not covered by these rules, the Clarksville Planning Commission shall interpret the *district* boundaries.

**Section 2.4 Zoning of Annexed Lands:** Two options exist for the zoning of annexed land:

Option A: If no action is taken, the annexed property shall be zoned by default as R-1, Single Family Residential. This zoning designation shall remain valid for only one year after the effective date of the ordinance annexing the property. Before expiration of the one year default zoning designation, the City Council shall instruct the Planning Commission to study and make recommendations on the proper land use of the annexed property. These recommendations will conform to Clarksville’s Comprehensive Development Plan and promote the general welfare of the public. After the Planning Commission provides its recommendation following a public hearing, the City Council will rezone the annexed property according to procedures established in Section 12.6 of the Zoning Code.

Option B: Any zoning *district* or *districts* may be designated for the annexed property by the City Council. This designation will not be subject to the one year expiration in Option A. The designated zoning *district* must be provided in the annexation ordinance, and the City Council must hold a public hearing on the designation prior to approval of the annexation ordinance.

**Section 2.5 Vacation of Public Easements:** When a *street*, *alley*, or public easement is vacated, the zoning *district* classification of the property gaining the vacated area will apply to the vacated property also.

## ARTICLE 3. SPECIFIC DISTRICT REGULATIONS

**Section 3.1 Residential Districts:** The following regulations govern residential *districts*:

**3.1.1 General Description:** The residential zoning *districts* are designed to (1) protect the residential character of the *districts* by excluding commercial and industrial activities, (2) encourage healthy neighborhoods by allowing facilities as churches, schools and playgrounds, (3) permit certain community facilities and public utilities for the convenience and general welfare of the people, and (4) preserve *open space* by requiring minimum *yard setbacks* and *lot sizes*.

Six residential zoning *districts* are provided, including the following: R-1 Single-Family, R-2 Low Density Residential, R-2 (AH) Affordable Housing District, R-3 Medium Density Residential District, R-4 Manufactured Home District, and R-O Residential Office. A more specific description of each *district* is below.

1) *R-1 Single-Family Residential* - This is the most restrictive residential *district*. This *district* is primarily intended for *detached single-family dwellings*. It is also intended for related parks, places of worship, and schools that are needed for a healthy, attractive neighborhood. Adequate light, air, and *open space* are provided to promote neighborhood stability, appearance, and efficiency.

This *district* is intended only for uses needed to provide a strong neighborhood. The R-1 *district* should be buffered from commercial *districts* by other residential zoning *districts* such as R-2 or R-3. Where an arterial *street* suitable for commercial development is located within an R-1 zone, only frontage *lots* along the arterial *street* should be zoned commercial. In this case, other means of buffer protection shall be required.

2) *R-2 Low Density Residential District* - This zoning *district* is intended to be similar to the R-1 *district*, but allow more housing types and slightly higher population density. The *district* is primarily intended for *attached and detached single-family dwellings* along with larger *lot two-family dwellings*.

3) *R-2 (AH) Affordable Housing District* - This *district* is similar to the R-2 zone except that manufactured housing are permitted.

4) *R-3 Medium Density Residential District* - This is a residential *district* to provide for medium density *dwellings* and a wide variety of housing types. It is primarily intended for *single-family dwellings, two-family dwellings, townhouses, and multiple-family dwellings*. It is also intended for related parks, places of worship, and schools that are needed for a healthy, attractive neighborhood.

5) *R-4 Manufactured Home District* – This *district* is intended to provide for *manufactured homes* in a either a rental park or subdivision. R-4 *districts* should be located in way that does not negatively impact existing neighborhoods. It is also intended for related parks, places of worship, and schools that are needed for a healthy, attractive neighborhood.

6) *R-O Residential Office District* – This *district* is intended to provide a place for those types of offices, professional and service activities that provide for the regular needs or convenience of persons residing in the city. It is further intended to preserve the residential character of the *district* while allowing for the new construction of office structures and conversion of residential structures to office uses.

**3.1.2 Uses Permitted:** For permitted uses see the table below. Permitted uses must meet the following requirements:

- 1) Provide adequate off-street parking
- 2) Certain uses are allowed limited hours of operation, as noted below in the use table.
- 3) Provide an adequate subdivision site or *lot* for the type of *dwelling unit* or units.

Amended: Ord. 2014-732

USE TABLE	ZONING DISTRICT						SPECIAL PROVISIONS
	R-1	R-2	R-2(AH)	R-3	R-4	R-O	
P = Permitted Use NP = Prohibited Use SP = Special Use Permit (see Article 4)							
<i>Accessory Dwelling Unit</i>	SP	NP	NP	NP	NP	SP	5.20
<i>Bed and Breakfast</i>	NP	NP	NP	SP	NP	P	
<i>Personal Services (7 am – 8 pm)</i>	NP	NP	NP	NP	NP	P	
<i>Child Care Center - Private</i>	NP	NP	NP	NP	NP	NP	5.2.3
<i>Child Care Center – Public or Non-profit</i>	SP	SP	SP	SP	SP	SP	5.2.3
<i>Child Care Family Home</i>	SP	SP	NP	SP	NP	P	5.2.2
Club or Lodge, Private	NP	SP	SP	SP	NP	SP	
Church or Place of Worship	P	P	P	P	P	P	
<i>Community Building</i>	SP	SP	SP	SP	SP	P	
Health Center, Institution for Aged or Children	NP	SP	SP	SP	NP	P	
<i>Live/Work Unit</i>	NP	NP	NP	NP	NP	P	5.19
<i>Medical Retail Store (7 am – 8 pm)</i>	NP	NP	NP	NP	NP	SP	
Nursing or Rest Home	NP	NP	NP	SP	NP	P	
<i>Offices, Professional/Medical (7 am – 8 pm)</i>	NP	SP	SP	SP	NP	P	
Park or Recreational Facility	P	P	P	P	P	P	
School, Public or Parochial	SP	SP	SP	SP	SP	P	
Field Crops, Gardens	P	P	P	P	P	P	
Accessory Uses as defined in Art. X that are accessory to the permitted uses in these <i>districts</i>	P	P	P	P	P	P	

USE TABLE (continued)	ZONING DISTRICT						SPECIAL PROVISIONS
	R-1	R-2	R-2(AH)	R-3	R-4	R-O	
P = Permitted Use NP = Prohibited Use SP = Special Use Permit (see Article 4)							
<i>Single-Family Detached Dwelling</i>	P	P	P	P	NP	P	
<i>Single-Family - Manufactured Home</i>	NP	NP	P	P	P	NP	5.14
<i>Single-Family - Zero Lot Line (1)</i>	NP	SP	SP	P	NP	NP	
<i>Single-Family Attached Dwelling</i>	NP	P	P	P	NP	NP	
<i>Two-Family Dwellings</i>	NP	P	P	P	NP	P	
<i>Multiple-Family Dwellings</i>	NP	NP	NP	P	NP	NP	
<i>Manufactured Home - Subdivision</i>	NP	NP	NP	NP	P	NP	5.12
<i>Manufactured Home - Parks</i>	NP	NP	NP	NP	P	NP	5.13
Note (1) - Zero Lot Line developments are allowed only on lots of 20,000 sq. ft. or more.							

**3.1.3 Units per lot:** Only one *main building* per lot is allowed for all *dwelling* types except *Multiple Family Dwellings*. This includes attached and detached *single-family dwellings*, *manufactured homes*, *modular homes*, and *two-family dwellings*. This does not apply to *manufactured home parks*.

**3.1.4 Lot, Yard and Height Regulations:** No *lot* or *yard* can be created or reduced so that it does not meet the minimum area requirements shown in the following table. No *building* or *structure* shall be constructed or changed so that it will exceed the maximum *building height* requirements shown in the following table. Any use not specifically listed in the following table must meet the most restrictive area, *yard*, and *building height* requirements for its zoning *district*.

**Building Height:** The vertical distance measured from the average elevation of the finished grade at the front of the *building* to the highest point of the *structure*, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

**Building Line:** The line of that face of the *building* nearest the front line of the *lot*. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

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

**Setback:** Distance between the *lot line* and the *building line*.

**Story:** That portion of a *building*, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half *story* is a partial *story* under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of each *story*.

Zoning District	Use	Area and Width Req. in Feet			Setback Requirements in Feet					Max. Height	
		Lot Area Sq. ft.	Lot Area per Family	Lot Width	Front	Side			Rear	Feet	Stories
						Interior	Exterior	Corner to Rear Yard			
R-1	S.F. Detached	7,500	7,500	70	25	7-1/2	25f	15	25	35	2-1/2
R-2, R-2 (AH)	S.F. Detached	6,000	6,000	60	25	6	25f	15	25	35	2-1/2
	S.F. Manufactured	6,000	6,000	60	25	6	25f	15	25	35	2-1/2
	S.F. Attached	6,000	6,000	60	25	10b	25f	15	25	35	2-1/2
	S.F. Zero Lot	4,000	4,000	40	25	10a	25f	15	25	35	2-1/2
	Two-Family	9,000	4,500	90	25	8	25f	15	25	35	2-1/2
R-3	S.F. Detached	6,000	6,000	70	20	5	20f	15	25	35	2-1/2
	S.F. Manufactured	6,000	6,000	70	20	5	20f	15	25	35	2-1/2
	S.F. Attached	6,000	6,000	70	20	7b	20f	15	25	35	2-1/2
	Two-Family	8,000	4,000	80	20	7	20f	15	25	35	2-1/2
	Townhouses	4,500c	4,500c	22d	20	7b	20f	15	25	35	2-1/2
	Multi-Family	10,000	2,500	70e	20	10	20f	15	25	35	2-1/2
R-4	M.H. - Subdivision	5 acres	5,000	45	20	10	20f	15	20	15	1
	M.H. - Park	2 acres	4,500	45	20	10	20f	15	20	15	1
R-O	S.F. Detached	7,500	7,500	70	25	10	25f	15	25	35	2-1/2
	Two-Family	9,000	4,500	90	25	10	25f	15	25	35	2-1/2
	Other Uses	20,000	N/A	100	25	25	25f	25	25	35	2-1/2

Notes:

- a) This applies to only one side of the *dwelling*. It allows for each *detached dwelling unit* to be "offset" on the *lot* to create a more useable *side yard*. Where a zero *lot* line use is adjacent to a different residential zone or use, a *side yard* of at least 8 feet is required adjacent to the other use or zone.
- b) For unattached sides only.
- c) This area includes both private and common area.
- d) When a *side yard* is required, the *lot width* shall be increased to include the minimum *lot width* plus the required *side yard*. This applies to unattached sides only.
- e) Minimum *lot width* shall be increased by 10 feet for each *dwelling* unit over four. The maximum required width is 200 ft.
- f) For *corner lots* the side *setback* next to a *street* is 15 feet from the *street* right of way line.

**3.1.5 R-O District Requirements:**

Amended: 2016-762

- 1) Building Facades: *Buildings* shall be designed such that the front *façade* shall face the frontage on which the property has primary access. At least fifteen (15) percent of the total square footage of the front *façade*, exclusive of roof areas, shall contain windows or doors. All *building façades* shall be constructed of wood, masonry, rock, exterior insulations finish systems (EIFS), glass, tile, stucco, or similar architectural material.

No front *façade* shall be allowed to be constructed of only corrugated metal. Use of other materials shall require approval of the Planning Commission.

2) Roof Form: All *buildings* shall be required to have a hipped or gabled roof with no less than a 6/12 roof pitch. Use of other roof forms and pitches shall require approval of the Planning Commission.

3) Screening and Fencing: All mechanical and utility equipment as well as trash enclosures shall be screened by fencing and/or vegetation so that it shall not be visible from a roadway or adjacent property. No fencing shall be permitted on any property within the *front yard* or *side yard* facing a street frontage unless the *fence* is of a decorative design and see-through. Chain-link and barbed wire fences shall not be considered decorative.

4) Parking: All parking and vehicular use areas shall be placed within the side or rear yard of the lot and shall be setback from all property lines by a greenspace of at least ten (10) feet.

5) Lighting: Lighting equipment shall not exceed twenty (20) feet in height. Lighting equipment shall be located, aimed, and shielded to minimize light trespass across property boundaries.

6) Landscaping: The area between the front façade of the *principal building* and front lot line/right-of-way line shall be required to be landscaped. Landscaping shall consist of shrubs, trees, grasses, ground cover, and/or mulch. No areas of open soil shall be permitted.

**Section 3.2 Commercial Districts:** These regulations govern commercial *districts*:

**3.2.1 General Description:** The commercial zoning *districts* are designed to provide areas for businesses and services used by the residents of Clarksville and surrounding areas. Three different commercial *districts* are provided. These include the C-1 Central Business District, the C-2 Quiet Business and Office District, and the C-3 Highway Commercial District.

**3.2.2 C-1 Central Business District:** This *district* is intended for Clarksville’s downtown area. It is designed to allow for a mix of uses that create a vibrant downtown. Within the *district* are design standards to protect downtown’s character and property values.

They are as follows:

- 1) No *building* shall be constructed or changed to have exposed metal walls on any side or *facade*. Metal fascia, ornamental trim, and metal siding typically used in residential *buildings* are allowed.
- 2) Outdoor display of merchandise is allowed under the following conditions only:
  - A. Sidewalks are kept free of any objects or merchandise at least five (5) feet from back of curb at all times.
  - B. No merchandise is displayed or stored in a public *alley*.
  - C. Merchandise is displayed during business hours only.

**3.2.3 C-2 Neighborhood Commercial and Quiet Business District:** This *district* is intended to allow for quiet businesses, professional offices, *medical and dental clinics*, and similar uses. Uses in this *district* should be compatible with adjacent multi-family residential uses. This *district* should not encroach into existing neighborhoods. The C-2 *district* should be limited to frontages on arterial *streets* when near zoning *districts* that allow single-family residential development. Within the *district* are design standards to reduce impacts on adjacent neighborhoods.

They are as follows:

- 1) No *building* shall be constructed or changed to have exposed metal walls on any side or *facade*. Metal fascia, ornamental trim, and metal siding typically used in residential *buildings* are allowed.

**3.2.4 C-3 Highway Commercial District:** This *district* is intended for commercial uses not appropriate in C-1 and C-2 that are mostly supported by vehicle traffic such as *motels*, restaurants, gas stations, and other similar uses. Within the *district* are design standards to reduce impacts on adjacent areas.

They are as follows:

- 1) Outdoor display of merchandise is allowed under the following conditions only:
  - A. No merchandise is displayed or stored on any sidewalk, public *alley*, or *parking space* required in Article 6.

B. Merchandise is displayed during business hours only.

2) These requirements do not apply to automobiles or other items typically stored or used outdoors. However, trucks or trailers delivering merchandise shall not be used for storage or the sale of merchandise.

**3.2.5 Uses Permitted:** For permitted uses see the table below. Permitted uses must meet the following requirements:

- 1) Provide adequate off-street parking
- 2) Meet any special provisions that apply to the use (see Article 5)
- 3) Provide an adequate site for the type of use.

USE TABLE	ZONING DISTRICT		
	C-1	C-2	C-3
P = Permitted Use NP = Prohibited Use SP = Requires Special Use Permit (see Article 4)			
<i>Adult Daycare Center</i>	SP	SP	P
Amusement Facility Commercial	P	NP	P
Antique or Gift Store	P	P	P
Appliance Sales & Service	P	SP	P
Automotive Accessory & Supply Store	P	SP	P
Automotive & Truck Sales (New & Used) & Service	NP	NP	P
Automotive Body Shop	NP	NP	P
Automotive Car Wash	NP	NP	P
<i>Automotive Service Station, not including body or motor repair or painting</i>	NP	NP	P
Bank, Savings & Loan	P	P	P
Barber or Beauty Shop	P	P	P
<i>Bed and Breakfast</i>	SP	SP	SP
<i>Child Care Center – Private (with one on-site dwelling unit)</i>	P	P	P
<i>Child Care Center – Public or Non-Profit (with one on-site dwelling unit)</i>	P	P	P



USE TABLE	ZONING DISTRICT		
	C-1	C-2	C-3
P = Permitted Use NP = Prohibited Use SP = Requires Special Use Permit (see Article 4)			
Church or Place of Worship	P	P	P
<i>Clinic, Dental, Medical or Osteopathic, Chiropracist, Pharmacy</i>	P	P	P
Clinic, Veterinary	NP	NP	SP
Club or Lodge	P	SP	P
<i>Convenience Store</i>	SP	NP	P
Drug Store	P	SP	P
Dry Cleaners & Laundry	P	NP	P
Eating Place, which does not provide service in automobile (with interior dining facilities)	P	P	P
Eating Place W/Service in Automobiles	NP	NP	P
Florist Shop	P	P	P
<i>Free-Standing Vending Machines</i>	NP	NP	SP
Funeral Home, Mortuary, or Undertaking Establishment	P	NP	P
<i>Hotel</i>	SP	NP	P
Light Industry with Retail Sales	SP	NP	SP
<i>Live/Work Unit</i>	SP	NP	NP
<i>Motel</i>	SP	NP	P
Mini-Storage	SP	SP	P
Multi-Family Residential	SP	SP	SP
<i>Manufactured Home – Individual</i>	NP	NP	SP
Offices: Professional	P	P	P
Public <i>Buildings</i> and Facilities	P	SP	P
Repair Outlet with Outdoor Storage	NP	SP	NP
Retail Establishment with No Outside Display	P	SP	P
Retail Establishments with Outside Display	P	NP	P
<i>RV and Travel Trailer Park</i>	NP	NP	SP
School, Nursery, or Day Care	NP	SP	P

USE TABLE	ZONING DISTRICT		
	C-1	C-2	C-3
P = Permitted Use			
NP = Prohibited Use			
SP = Requires Special Use Permit (see Article 4)			
<i>Single-Family Detached Dwelling</i>	SP	SP	SP
Studio, Photographic, Musical	P	P	P
Theater, Indoor	P	NP	P
Warehousing, Inside Storage Only	P	NP	P
Utility Staging Yard with Outdoor Storage	NP	SP	NP
Wholesale Establishment	P	NP	P
Wrecker Service	NP	SP	SP
Accessory Uses to Permitted Uses	P	P	P

**3.2.6 Lot, Yard, Height Requirements:** No *lot* or *yard* can be created or reduced so that it does not meet the minimum area requirements shown in the following table. No *building* or *structure* shall be constructed or changed so that it will exceed the maximum *building height* requirements shown in the following table.

**Building Coverage:** The percentage of the *lot area* covered by the *building*. The building area shall include all overhanging roofs.

**Building Height:** The vertical distance measured from the average elevation of the finished grade at the front of the *building* to the highest point of the *structure*, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

**Building Line:** The line of that face of the *building* nearest the front line of the *lot*. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

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

**Setback:** Distance between the *lot line* and the *building line*.

**Story:** That portion of a *building*, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half *story* is a partial *story* under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of each *story*.

AREA REQUIREMENTS	ZONING DISTRICT		
	C-1	C-2	C-3
Minimum <i>Lot Area</i> (Square Feet)	2,500	5,000	5,000
Minimum <i>Lot Width</i> at Building Line (Feet)	25	50	50
Maximum <i>Building Coverage</i> (Percentage)	100	40	50
YARD REQUIREMENTS (Feet)			

AREA REQUIREMENTS	ZONING DISTRICT		
	C-1	C-2	C-3
A. Minimum <i>Front Yard</i>	None	25	25
B. Minimum <i>Rear Yard</i>	None	25	25
C. Minimum <i>Side Yard</i>			
1) Interior			
(a) When abutting property in residential <i>district</i>	10	20	20
(b) When abutting property in nonresidential <i>district</i>	None	15	15
2) Exterior	None	20	15
<b><i>BUILDING HEIGHT REGULATIONS</i></b>			
Maximum Number of Feet	55	30	35
Maximum Number of Stories	5	2	3

- 1) *Setbacks* shall be measured from the anticipated right-of-way shown in the Master Street Plan.
- 2) The minimum required *setback* for service station pumps and pump islands is 15 feet from all property lines.

**Section 3.3 Industrial Districts:** The following are regulations for Industrial *Districts*:

**3.3.1 General Description:** The industrial *districts* are intended to provide areas where manufacturing and industrial activities can take place. They provide space for manufacturing, wholesaling, warehousing, processing, storage, assembling, packaging, and similar types of industrial uses and activities. These are the industrial *districts*:

- 1) I-1 - Light Industrial District: This industrial use *district* represents the industrial park areas and also areas suitable for the location of industries which place a heavy emphasis on aesthetics and public relations as evidenced by the nature of their operations which is not detrimental to nearby residential and quiet business *districts* and by their allocation of an ample amount of the site for landscaping, paved off-street parking, and *setbacks* from surrounding property lines.
- 2) I-2 - General Industrial District This industrial *district* is intended for general and customary industrial uses and activities as listed above in association with the I-1 *district*, but including also the bulk storage of liquids and solids outside *buildings* and in the *open spaces* and the storage and assembly of goods and materials in the open areas outside enclosed *buildings*.

**3.3.2 Permitted Uses:** The permitted uses in the industrial *districts* are set forth below:

- 1) I-1 - Light Industrial District Property and *buildings* in the I-1 Industrial District shall be used only for the following purposes:
  - A. Manufacturing, compounding, processing, packaging, and/or assembling of products which, by the nature of the operation, does not produce noise, dust, odor, or vibration that is detrimental or dangerous to the health, safety, or general welfare of the community.
  - B. Any business, commercial, or industrial uses which do not create unusual hazards of fire, explosions, noise, vibration, dust, or the emission of smoke, odor or toxic gases. No use which would involve the manufacture, processing, or storage of any material or goods which has a high hazard of fire, explosion, or of a toxic nature shall be permitted as a use by right in the I-1 Light Industrial District.
  - C. Certain uses permitted in the C-3 Highway Commercial District by right, namely automotive accessory and supply store, automotive body shop, automotive car wash, dry cleaners and laundry, florist shop and greenhouse, professional offices, mini-storages, nursery or day care center, photographic or musical studio, warehousing with inside storage only, wholesale establishment, and accessory uses; and other selected uses by special permit, namely public *buildings* and facilities, automotive and truck sales and service, and *service station*.
  - D. *Dwellings* for resident watchmen and caretakers employed on the premises.
- 2) I-2 - General Industrial District Property and *buildings* in the I-2 Industrial District shall be used only for the following purposes:
  - A. Permitted uses in the I-1 Light Industrial District as stipulated above in Subsection 3.3.2 except the uses so permitted by virtue of their being permitted in a C-3 Highway Commercial District and specifically listed in paragraph 1) of Section 3.3.2 are not permitted in the I-2 Industrial District.

B. Uses or activities which involve in addition to customary and normal manufacturing and industrial processes the storage of bulk materials when it is found that the specific location and the safeguards provided so reduce the danger from fire or explosion as not to be dangerous to the health, safety, or general welfare of the community and especially nearby properties.

C. While the permitted uses described above in Sub-paragraphs (a) and (b) are permitted in the I-2 District by right, the following provisions pertain to extraordinary situations and those which do not mesh with the stipulations and regulations prescribed above in this subsection. Industrial uses having unusual accompanying hazards, such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with any law or ordinance in the City of Clarksville or the State of Arkansas, be located in the I-2 Industrial District only after the location and nature of such use shall have been approved by the City Council after public hearing and report by the Planning Commission as normally required and provided in Article 4. The City Council shall review the plans and statements and shall not permit such *buildings, structures*, or uses until it has been shown that the public health, safety, morals and general welfare will be properly protected, and that necessary safeguards will be provided for the protection of surrounding property and persons. The City Council, in reviewing the plans and statements, may consult with other agencies created for the promotion of public health and safety, and may attach such special conditions or safeguards as it deems necessary to protect the public interest, health and safety. With regard to the situations described herein, the approval of the Planning Commission and the City Council shall be in accordance with the stipulations and requirements pertaining to special permit uses as contained in Article 4. This means that the use so allowed is not by right but rather by special permit.

**3.3.3 Area Regulations:** The following area regulations apply to uses and activities located in the two industrial *districts*. Off-street parking and loading shall be provided in accordance with the regulations contained in Article VI.

AREA REQUIREMENTS	ZONING DISTRICT	
	I-1	I-2
Minimum <i>Lot Area</i> (Square Feet)	N/A	N/A
Minimum <i>Lot Width</i> at Building Line (Feet)	N/A	N/A
Maximum <i>Building Coverage</i> (Percentage)	35	50
YARD REQUIREMENTS (Feet)		
A. Minimum <i>Front Yard</i>	40	25
B. Minimum <i>Rear Yard</i>	25	25
C. Minimum <i>Side Yard</i>	25	25
D. <i>Yard</i> abutting Railroad Line	0	0

AREA REQUIREMENTS	ZONING DISTRICT	
	I-1	I-2
<i>BUILDING HEIGHT REGULATIONS</i>		
Maximum Number of Feet	35	45
Maximum Number of Stories	2	3

Within I-2, all bulk storage of goods or materials must be located within the confines of *structures*, or enclosed entirely by a sight-proof *fence* not less than 6 feet and not more than 8 feet in height so that the goods or materials may not be seen from the *street* or any adjacent property. Screening adjacent to railroad siding facilities is not required.

**Section 3.4 Planned Unit Development – PUD:** The following regulations are for Planned Unit Developments (PUD):

**3.4.1 General Description:** The purpose of this *district* is to allow innovative developments and/or to address environmental conditions in the development process in a way that would not be possible using the standards of the other zoning *districts* in this code. To use the PUD process the tract of land must be at least one acre in size. A plan must be submitted for the entire tract and may be developed with a mix of uses. Any residential development should generally follow the requirements of one or more of the residential zoning *districts* in this code. However, innovative development concepts are allowed. A permit is required. The application, with payment of fee as set forth by the City Council.

**3.4.2 Site Plan Required:** Five copies of a detailed site plan of the proposed Planned Unit Development District shall be submitted to the City Inspector for study. If necessary, the Inspector shall have the proposed site plan reviewed by the City’s Engineer and/or City Planner, the Fire Chief and *street* and utilities managers. Any provision of the plan may be negotiated based on issues relating to the public health and safety of the residents of Clarksville. Following review and any required negotiations, the site plan as revised shall be considered by the Planning Commission at its next regular meeting. Approval shall require a majority vote of the entire Planning Commission. Final approval shall be made by the City Council based on the recommendation of the Clarksville Planning Commission.

**3.4.3 Uses Permitted:** Uses to be included in a specific Planned Unit Development District will be a part of the proposed plan. The City of Clarksville will allow flexibility in proposed uses but reserves the right to limit certain uses in keeping with the objectives of the comprehensive plan and the purposes of this Code.

**3.4.4 Regulations:** The following regulations apply to Planned Unit Development (PUD):

- 1) Residential Lot Size: No minimum *lot* sizes are established, per se, so the housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features.
- 2) Open Space Reservation: In any Planned Unit Development, the amount of land not used by residential *buildings*, accessory *structures*, and *yards* but required by the residential zoning of the site, shall be reserved collectively in contiguous units accessible to all the *building* sites in the development as maintained *open space* for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and conserving visually pleasing elements of the environment. Prior to the sale of any *lot*, site, home or other *structure* a bond of sufficient surety determined by the Administrative Official shall be posted with the City for completion of said *open space* improvements prior to such sale. The *open space* developed will constitute no less than an equivalent proportional amount to the area being developed in the case of partial development.
- 3) Development Density: Business uses in any Planned Unit Development District shall not constitute over 25 percent of the land area of such development. Land area occupied by residential, business, public and other *buildings* and accessory *structures* shall not exceed 45 percent of the total land area of such development. Parking areas for business facilities are considered a commercial use of land. Be it further provided that business development may not be started until the residential development is at least one-fourth complete.
- 4) Homes Association: As part of the plan proposed for any Planned Unit Development, the developer shall submit a set of covenants running with the land providing for an automatic membership in the

Homes Association, to be an incorporated nonprofit organization, operating under recorded land agreements, through which each property owner in the Planned Unit Development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, *open space* and/or other activities of the Association. Once established, the covenants shall continue and remain in force during the entire existence of the Planned Unit Development.

5) Responsibility for Open Space: Nothing in this Section of the Code shall be construed as a responsibility of the City of Clarksville, either for maintenance or liability of the following, which shall include, but not be limited to, any private open areas, parks, recreational facilities; and a hold harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that when an owner of a Planned Unit Development desires to dedicate certain land areas to the City for public parks and recreational facilities, and the City approves the nature and location of such lands, and accepts the dedicated areas, the City shall be responsible for the operation and maintenance of these lands and properties.

6) Common Spaces: Common *open spaces* shall be provided within a planned unit development in accordance with the Land Development Code of Clarksville, Arkansas. The size, shape, dimension and location of the *open spaces* shall be determined by the city in conjunction with the developer or subdivider with consideration being given to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration should also be given in providing parks, recreational facilities, both active and passive, and pedestrian walkways.

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

7) Preservation: In order to minimize the disturbance of the natural environment, a general landscaping plan shall be required at the time of preliminary plat submission showing the spacing, sizes, and specific types of landscaping material. The city shall review the landscaping plan in conjunction with the review of the preliminary plat.

The preservation of the natural amenities within the planned unit development shall be given due consideration which shall include topography, trees, and ground cover, natural bodies of water, and other significant natural features. Existing trees shall be preserved wherever possible. The location of trees shall be considered when planning the common *open space*, location of *buildings*, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. The city shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees and natural features before the commencement of *building* operations shall be discouraged by the city.

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

The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the city, pedestrian



underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

9) Land Subdivision: In the construction and installation of all subdivision improvements in the planned unit development, said improvements shall conform to all requirements and standards as set forth in the Subdivision Regulations of the City of Clarksville, unless exception to the requirements is recommended by the Planning Commission.

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

11) City Council Approval: Planned Unit Development Districts and establishment of zoning therefore must be approved by the Clarksville City Council. However, the development shall be in accordance with the approved site plan. Any contemplated deviation from the approved site plan shall be reviewed by the Planning Commission consideration, and all recommendations shall be submitted to the Clarksville Council for approval. The Clarksville Planning Commission has the authority to require reasonable plan changes for the Planned Unit Development as a prerequisite to approval.

Any variation from the submitted plans shall be considered a violation of the Planning and Zoning Code and shall incur the penalties set forth for such violation in Article 8, Section 8.4 of the Clarksville Zoning Code.

**Section 3.5 Agricultural Districts:** The following regulations are for Agricultural Districts:

**3.5.1 General Description:** The A-1 Agricultural District is designed to provide areas for agricultural uses within the city limits so that they remain compatible and are protected as a valuable natural resource.

**3.5.2 Uses Permitted:** Permitted uses are limited to the following:

- 1) Agriculture except hog farms.
- 2) Animal husbandry - the care and breeding of animals, excluding hogs, for sale.
- 3) *Single-family dwellings.*
- 4) Public facilities and Churches or Places of Worship.

The following uses may be allowed with a Special Use Permit (See Article 4).

- 1) Commercial recreation uses of 2 acres or more.
- 2) Golf courses and fairgrounds.

**3.5.3 Area Regulations:** The following area regulations apply to the A-1 Agricultural district.

AREA REQUIREMENTS	USES	
	Agricultural, Animal Husbandry, and Others	Residential
Minimum <i>Lot Area</i> (Square Feet - sf)	43,560 sf or 1 acre(a)	7,500 sf
Minimum <i>Lot Width at Building Line</i> (Feet)	N/A	70
<b>YARD REQUIREMENTS (IN FEET)</b>		
A. Minimum <i>Front Yard</i> (b)	50(c)	50
B. Minimum <i>Rear Yard</i>	50(c)	50
C. Minimum <i>Side Yard</i>	50(c)	50

- a) Minimum *lot area* requirement for commercial recreation uses is 2 acres.
- b) *Setbacks* shall be measured from the anticipated right-of-way shown in the Master Street Plan.
- c) The minimum *setback* for agricultural and animal husbandry *structures* from any residential zoning *district* is 100 feet.

**3.5.4 Approval of Expansions:** The expansion of any existing use, including proposed new improvements, must be approved with a Special Use Permit (see Article 4).

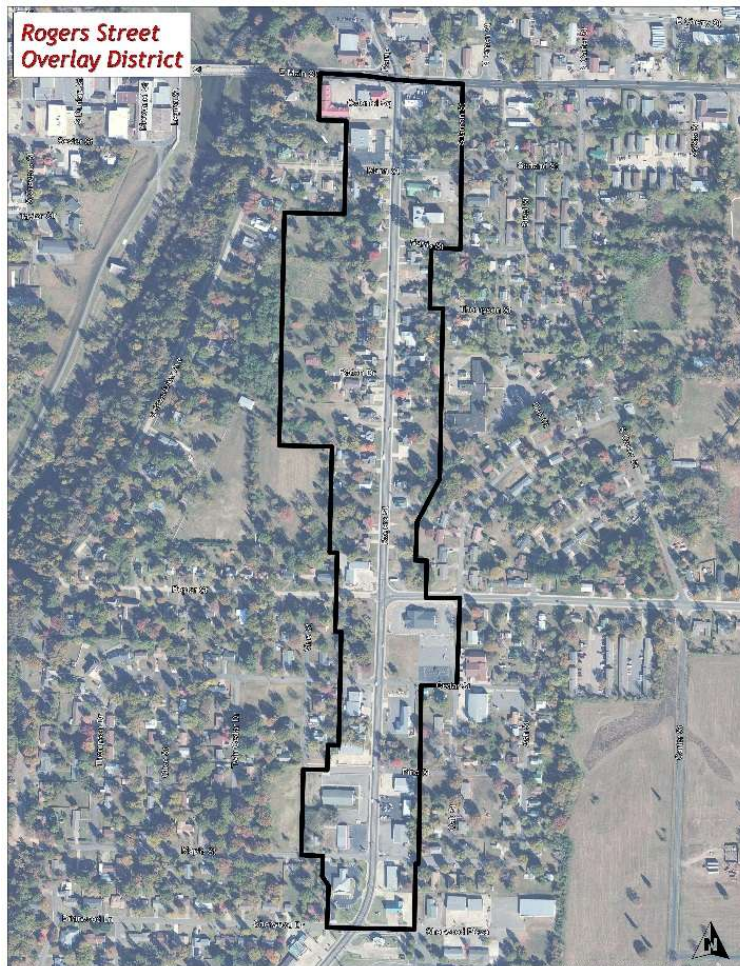
**Section 3.6 Rogers Street Overlay District:** The following regulations apply within the Rogers Street Overlay District:

*Amended: Ord. 2014-732, 2015-741*

**3.6.1 Purpose:** The purpose of the Rogers Street Overlay District shall serve as follows:

- 1) To protect and enhance the area surrounding the Rogers Street gateway such that it will provide an attractive and pleasing entryway to the City of Clarksville.
- 2) To encourage development within the district that will create a distinctive city district and serve as a long-term asset for Clarksville and its residents.
- 3) To minimize the number of curb cuts along Rogers Street so that the roadway will function at an efficient level of service.
- 4) To promote utilization of property within the overlay district for its best and most appropriate use.
- 5) To create development standards and land use regulations that will allow for the compatible and appropriate transition of the area from residential to commercial uses.

**3.6.2 Boundaries:** The boundaries of the district are indicated on the Official Zoning Map for the City of Clarksville.



**3.6.3 Application:** These regulations shall apply to all properties falling within the boundaries described in Section 3.6.2. The regulations shall be in addition and shall overlay all other zoning, subdivision, and signage regulations. Therefore, properties falling within the boundaries of the overlay district shall be bound to all zoning, subdivision, and signage regulations in addition to being bound by regulations of the overlay district.

Where the requirements or standards of the overlay district conflict with other regulations, the requirements and standards of the overlay district shall control. Where at least twenty-five (25) percent of a property’s area falls within the bounds of the overlay district, the requirements and standards of the overlay district shall apply to the entire property.

**3.6.4 Site and Development Standards:** The following regulations apply to development and redevelopment in the overlay district. Conformance to ALL of these standards shall be triggered by construction of a new *building* of more than 500 square feet in gross floor area or an addition to an existing *structure* of greater than one-third (1/3) the *structure’s* existing size.

Exterior building modifications with a cost greater than \$10,000 and requiring a building permit shall trigger the *building façade* requirements of item 3.

1) Prohibited Uses: The permitted uses of the underlying *zoning district* for a property shall constitute the permitted uses for a property, except that the following uses shall not be permitted in any zone within the overlay district:

TABLE OF PROHIBITED USES
<i>Manufactured Homes</i>
<i>Manufactured Homes Parks</i>
<i>Automotive &amp; Truck Sales and Service (New and Used)</i>
<i>Automotive Body Shop</i>
<b><i>Freestanding Vending Machines</i></b>
Light Industry with Retail Sales
Mini-Storage
Repair Outlet with Outdoor Storage
<b>Retail Establishments with Outside Display</b>
Utility Staging Yard with Outdoor Storage
Warehousing
Wrecker Service
Wholesale Establishment
Junk or Salvage Yard
Any commercial structure of less than 500 square feet

2) Area Requirements: Minimum *Front Yard*: 15 ft.

3) Access: Access along Rogers Street shall be limited to preserve the function of the street according to the following standards:

- A. To the greatest extent possible while allowing access for each property, all new access drives on Rogers Street shall be located at least fifty (50) feet apart, as measured from the nearest to nearest curb.
- B. No new access drive on Rogers Street shall be permitted within thirty-five (35) feet of a street intersection, as measured from the nearest curb to the nearest curb.
- C. Unless an already existing condition, only one (1) curb cut per street frontage shall be permitted for properties with two hundred (200) feet of street frontage or less per street frontage.

4) Building Facades: *Buildings* shall be designed such that the front *façade* shall face the frontage on which the property has primary access. Front and side *building façades* viewable from a public right-of-way shall be constructed of wood, masonry, rock, exterior insulations finish systems (EIFS), glass, pre-cast concrete, tile, stucco, Aluminum Composite Panels (ACP), or similar architectural material. Side *building façades* shall be allowed to meet this requirement by cladding the front fifteen (15) feet of the side *façade* or front 1/3, whichever is greater, with the approved materials listed above. Those unclad, rear portions of the side *façade* shall be screened with a vegetative buffer at least six (6) feet in height.

No front *façade* shall be allowed to be constructed of only corrugated metal. Use of other materials shall require approval of the Planning Commission. Sites with multiple *buildings* shall be required to have a unifying architectural theme and design.

5) Screening and Fencing: All mechanical and utility equipment as well as trash enclosures shall be screened by fencing and/or vegetation so that it shall not be visible from a roadway or adjacent property. No fencing shall be permitted on any property within the *front yard* or *side yard* facing a street frontage unless the *fence* is of a decorative design and see-through. Chain-link and barbed wire fences shall not be considered decorative.

Commercial properties adjacent to residential zoning *districts* and uses must meet additional buffering requirements. All interior sides and/or the rear of a C-2 or C-3 *lot* adjacent to a residential zoning *district* or *use* shall be *fenced* with an opaque ornamental *fence*, wall, or dense evergreen hedge between 5 and 7 feet tall at the time of planting, except as prohibited by visibility requirements in Section 5.7. The *fence*, wall, or hedge shall be kept in good condition and shall not extend beyond the front *façade* of the structure on the commercial property or the adjacent residential property.

6) Parking: All parking and vehicular use areas shall meet the following standards:

- A. All new parking and vehicular use areas along a public or private roadway frontage shall be separated from the back edge of the sidewalk by a greenspace of at least five (5) feet.
- B. All new parking and vehicular use areas shall be separated from all side and rear property lines with a greenspace of at least two (2) feet.
- C. No parking area may be configured to allow the backing of vehicles into a public street.

D. The placement of parking in the rear or *side yard* is strongly encouraged.

7) Utilities: All above-ground utilities shall be placed along the rear property line or be placed underground.

8) Lighting: All parking and loading areas shall have lighting. Lighting equipment shall not exceed twenty (20) feet in height. Lighting equipment shall be located, aimed, and shielded to minimize light trespass across property boundaries.

9) Signage: Signage shall follow these standards:

A. No *off-premise signage* shall be allowed.

B. Freestanding Signs:

1. Maximum *Sign Surface Area*: Street frontage may only be counted from the street on which the sign will be placed.

a. Lots with less than 75 linear feet of public street frontage: 32 square feet.

b. Lots with more than 75 linear feet of public street frontage: 32 square feet plus 1 square foot, up to 100 square feet, for each 4 linear feet of public street frontage over 75 feet.

2. Only one freestanding sign shall be allowed per structure. The permitted freestanding sign shall be allowed to serve as a directory sign for any multi-tenant structure.

C. Wall Signs: Business identification, façade, window, and awning signs shall be considered wall signs.

1. Maximum *Sign Surface Area* and Number:

a. Single-Tenant Structure: The maximum number of wall signs shall be limited by the total *sign surface area* permitted for wall signs. The total area for all wall signs shall not exceed 10% of the total square footage of the wall on which the sign is placed or 100 square feet, whichever is less. The maximum size for any wall sign shall be 100 square feet. These requirements shall apply independently to each *building façade*.

b. Multi-Tenant Structure: The maximum number of wall signs shall be limited by the total *sign surface area* permitted for wall signs. The total area for all wall signs shall not exceed 10% of the total square footage of the wall on which the signs are placed. The maximum size for any wall sign shall be 100 square feet. These requirements shall apply independently to each *building façade*.

10) Landscaping: A minimum of five (5) feet of landscaped green space shall be required on the property along and parallel to the right-of-way or easement of any public or private street on which the development has frontage. This shall apply to all street frontages. All landscaping shall conform to the standards below.

- A. No parking areas shall encroach into the required landscaping area.
- B. Landscaping shall consist of shrubs, trees, grasses, ground cover, mulch, or rock. No areas of open soil shall be permitted.
- C. One (1) tree shall be required for each fifty (50) linear feet of roadway frontage. One (1) shrub shall be required for each ten (10) linear feet of roadway frontage.
- D. Trees planted shall be at least six (6) feet in height with at least a two (2) inch caliper width at the time of planting.
- E. The property owner shall be responsible for maintenance of the landscaping in an orderly and living condition, including pruning, weeding, watering, and replacement when plants die or become diseased. Should the installed landscaping die or become diseased, the property owner shall replace the diseased or dead landscaping.

10) Landscaping Planting List: The following trees, shrubs, grasses, and ground covers are recommended for planting. They are found to be well suited to the area and require little maintenance. This list contains the species which may be planted within a required landscaping area.

Medium Trees (40' H x 30' W)

1. Swamp Red Maple – *Acer rubrum*
2. Red Sunset Maple – *Acer rubrum*
3. River Birch - *Betula nigra*
4. Ginkgo (Male) - *Ginkgo biloba*
5. Pistachio – *Pistachia chinensis*
6. Bald Cypress - *Taxodium distichum*
7. Chinese Elm - *Ulmus parvifolia*
8. American Holly - *Ilex opaca*
9. Eastern Red Cedar - *Juniperus virginiana*
10. Sweet Bay Magnolia – *Magnolia virginiana*

Small Trees (20' H x 15' W)

1. Amur Maple - *Acer ginnala*
2. Trident Maple - *Acer buergerianum*
3. Redbud - *Cercis*
4. Dwarf Southern Catalpa - *Catalpa bignonioides*
5. Eastern Redbud - *Cercis canadensis*
6. Flowering Dogwood - *Cornus florida*
7. Parsley Hawthorn - *Crataegus marshallii*
8. Green Hawthorn - *Crataegus viridis*
9. Deciduous Holly - *Ilex decidua*
10. Crape Myrtle - *Lagerstroemia*
11. Saucer Magnolia - *Magnolia × soulangeana*

12. Camellia – *Camellia japonica*
13. Sasanqua Camellia - *Camellia sasanqua*
14. Foster Holly – *Ilex attenuate 'Fosterii'*
15. Burford Chinese Holly – *Ilex cornuta 'Burfordii'*
16. Canaert Red Cedar – *Juniperus virginiana 'Canaertii'*
17. Silver Red Cedar – *Juniperus virginiana 'Glauca'*

#### Shrubs

1. Forsythia - *Forsythia*
2. Evergreen Hollies - *Ilex species*
3. Nandina - *Nandian domestica*
4. Yew - *Taxus baccata*
5. Abelia - *Abelia grandiflora*
6. Boxwood - *Buxus sempervirens primary*
7. Dwarf Crape Myrtle - *Lagerstroemia indica nana*
8. Dwarf Purpleleaf Japanese Barberry - *Berberis thunbergii "Atropurpurea"*
9. Juniper species - *Juniperus species primary*

#### Ground Covers

1. Bugleweed – *Ajuga reptans*
2. English Ivy - *Hedera helix*
3. Bigleaf Periwinkle – *Vinca major*
4. Dwarf Periwinkle – *Vinca minor*
5. Leadwort - *Ceratostigma plumbaginoides*
6. Stonecrop - *Sedum rupestre 'Angelina'*
7. White Nancy - *Lamium maculatum*

#### Grasses

1. Mayer Z-52 Zoysia
2. Emerald Zoysia
3. Bermuda grass
4. Bermuda grass hybrids
5. Centipede
6. St. Augustine

**3.6.5 Review Procedure:** All development within the overlay district, except for the construction of a *single-family dwelling* in a platted subdivision, shall be reviewed through the Site Plan Review procedure in Article 8 of the Clarksville Land Subdivision and Development Code. If the property proposed for development is part of a larger tract of land under the same ownership or is adjacent to land under the same ownership, the applicant shall submit a conceptual master plan for the entire tract or adjacent properties along with required submittals for the property under consideration.



1) All development applications shall be reviewed and approved by the *Administrative Official*. The *Administrative Official* shall have the authority to defer review and approval of any application to the *planning commission* where concerns regarding the hours of operation of a business, buffering/screening of adjacent property, or placement of required parking area may exist.

Any decision by the Administrative Official in reviewing a development application may be appealed by anyone to the *Planning Commission*. This provision shall supersede the normal appeal procedure in Article 11, Section 11.3.1.

2) In reviewing an application the *planning commission* may impose conditions on approval. These conditions shall be restricted to:

- A. Limiting the hours of operation of a business
- B. Requiring additional buffering/screening to protect adjacent property.
- C. Limiting placement of required parking areas.

3) The *Administrative Official/Planning Commission* shall not deny an application for development in the Rogers Street Overlay District except on a basis of findings supported by at least one of the following standards:

- A. The development application is incomplete or contains/reveals violations of this Code or other applicable regulations which the applicant has failed to supply or correct.
- B. The development application creates pedestrian or vehicle safety hazards on-site and/or off-site.
- C. The development application will create financial burdens to the City and its taxpayers.
- D. The development application will result in off-site improvements costs to the City for which there is no written agreement between the City and the developer on how those costs will be handled.
- E. There are not adequate public/private utilities to handle the demand created by the proposed development.
- F. The development application does not conform to the provisions of the Clarksville Comprehensive Plan or Clarksville Master Street Plan.

## ARTICLE 4. SPECIAL USE PERMITS

**Section 4.1 Nature and Description:** Because of their unique character and impact on adjacent properties, some uses in this code are designated as special uses and require a permit. Depending on the nature of the use, such uses may or may not be desirable and appropriate in all circumstances. Each application must be individually considered to provide for conditions of approval and special restrictions. These conditions and restrictions are used to protect the adjacent area where the special use will be located.

**Section 4.2 Uses:** A list of allowable special uses specific to each zoning *district* can be found in the permitted use table or list for the zoning *district* (See Article 3). However, the uses below may be allowed in any zoning *district*. All special use permits must be approved following the procedure in Section 4.3.

- 1) Cemetery or mausoleum.
- 2) Greenhouse or nursery.
- 3) *Hospital or nursing home.*
- 4) Landing field or strip for aircraft.
- 5) Radio tower or broadcasting station.
- 6) Removal of gravel, topsoil or similar natural material. (see Section 5.9)
- 7) *Public utility structure*, such as water treatment plant, power plant, etc.

**Section 4.3 Procedure for Authorizing:** The following is the review procedure for all special use permits:

- 1) An application shall be filed with the Administrative Official for review. The application shall show the location and proposed use of the site, existing land uses within 200 feet, and any other material or information the Planning Commission may require.
- 2) The Administrative Official will set the date for a public hearing on the application. The public hearing must be advertised in a newspaper of general circulation in the City of Clarksville not fewer than 15 days before the public hearing. The Public Notice shall give the location of the property and the proposed use desired for the permit. The Administrative Official must also post a noticeable sign on the property advertising the public hearing.
- 3) In considering the application, the Planning Commission shall pay attention to the nature and condition of all adjacent uses and *structures*. The application may be denied or approved. If approved, conditions and restrictions on location, construction, maintenance, and operations may be imposed as necessary to protect adjacent properties and the health, safety, and welfare of the community.
- 4) A majority vote of the entire Planning Commission (at least five votes) shall be required to recommend approval of a Special Use Permit application to the City Council.

5) The City Council, by majority vote, may approve a recommended Special Use Permit application, may approve with changes, or may deny the application. If denied, another application cannot be re-filed for the property within 12 months from the date of the City Council's vote.

*Amended – Ord. 2001-430*

6) A Special Use Permit shall run with the land, meaning the permit is independent of the property owner. However, any expansion of the original development allowed by the Special Use Permit exceeding 100 square feet or an estimated construction cost of \$10,000 shall require a new Special Use Permit.

**Section 4.4 Fees:** Before the application is reviewed, an application fee must be paid to the City Clerk. The fee is set by the City Council in its Schedule of Fees. This fee is non-refundable.

## ARTICLE 5. SPECIAL PROVISIONS

The provisions of this Article shall apply to any permit or approval granted through this Code. The requirement applies regardless of any pre-existing use, condition, or non-conformity.

**Section 5.1 Accessory Buildings:** *Accessory buildings* must meet the following standards:

*Accessory Buildings and Uses:* An accessory building is a subordinate *building* or a portion of the *main building*, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Code) located on the same *lot* as, the use of the *main building* or *principal use* of the land. An accessory use is one which is clearly incidental to, or customarily found in connection with, and on the same *lot* as, the main use of the premises. When "accessory" is used in the text, it shall have the same meaning as accessory use.

**5.1.1 Location:** An *accessory building* may be placed in the *rear* or *side yard*. It may not be placed in any public easement and must be at least 5 feet from all property lines.

**5.1.2 Carports:** Metal Carports are considered permanent *structures* and must meet the provisions of the Arkansas State Fire Code and other building codes adopted by the City of Clarksville. All metal Carports when installed in *front yards* or *side yards* next to *streets*, shall be subject to the same *setbacks* as govern for the particular zone as listed in Article 3, Section 3.1.3 and Article 3, Section 3.2.3. When installed in a *rear yards* away from the *street* side they shall comply with accessory building *setback* requirements.

**Section 5.2 Child Care Facilities:** Child care facilities must meet the following standards.

**5.2.1 Child Care Facilities not requiring city approval or permits:** The following do not require city approval or permits.

- Registered Child Care Family Home
- Relative Child Care Family Home
- In-home Child Care Provider

**5.2.2 Child Care Family Homes:** Child Care Family Homes in residential zoning *districts* must meet the following standards:

- 1) It must be located in a *single-family dwelling* that is the permanent residence of the facility's operator. The facility's operation must not change the character of the residence.
- 2) The *dwelling* shall have a minimum *lot* size of 6,000 square feet. All areas used for outdoor play must be located in the *side* or *rear yard*, and be *fenced* with an opaque *fence* at least 6 feet tall.
- 3) The *dwelling* shall meet all City, County, and State Health Department requirements as to safety, design, facilities, equipment, and other features. Its operation must not adversely affect other properties and uses in the area.
- 4) An off-street *parking space* shall be provided for each employee of the center.
- 5) An off-street *parking space* shall be provided for use as a loading/unloading zone.

6) City Fire Chief inspection and approval is required.

7) Where permitted (see Section 3.1.2), a Special Use Permit is required.

**5.2.3 Child Care Centers:** *Child Care Centers* must meet the following requirements:

1) *Child Care Centers* are only permitted in commercial zoning *districts* (See Section 3.2.5).

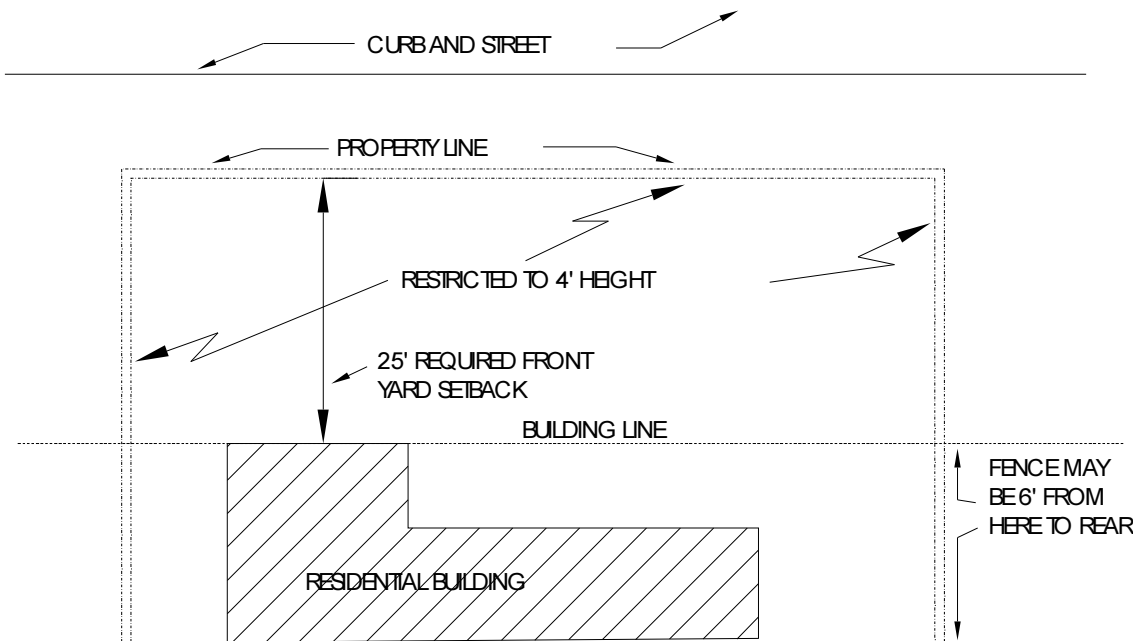
2) City Fire Chief inspection and approval required.

**Section 5.3 Fences and Buffer Protection of Residential Zones:** An ornamental *fence* or wall less than 4 feet tall is allowable in a *front or side yard*. Ornamental *fences* or walls less than 6 feet tall are allowable from the front edge of the *building* to the *rear lot line*. Ornamental *fences* or walls in excess of these height limits shall require approval of the *Planning Commission*.

Amended: Ord. 2014-732

*Fence:* A man-made barrier constructed to provide privacy or visual separation between one ownership and another.

*Fences* on *corner lots* are subject to visibility requirements (see Section 5.7).



1) Commercial or industrial properties adjacent to residential zoning *districts* must meet additional buffering requirements. All interior sides and/or the rear of a C-2, C-3, I-1, or I-2 *lot* adjacent to a residential zoning *district* shall be *fenced* with an opaque ornamental *fence*, wall, or dense evergreen hedge between 5 and 7 feet tall at the time of planting, except as prohibited by visibility requirements in Section 5.7. The *fence*, wall, or hedge shall be kept in good condition.

2) Further buffer protection as appropriate for these zones shall be provided by increased *setback* requirements at issuance of building permits.

3) The buffer protection requirement may be waived by the Administrative Official if the adjoining residential property owner or owners object to the buffer. The objection must be submitted in a letter to the Administrative Official. The letter must be signed by all owners of all the properties adjacent to the buffer.

**Section 5.4 Flammable Liquids and Gases:** The storage of flammable liquids and gases shall comply with the State of Arkansas Fire Prevention Code.

**Section 5.5 Height Requirements:** Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus may exceed the zoning *district's* allowed *building height* as long as the construction and *building height* do not violate any other City ordinance.

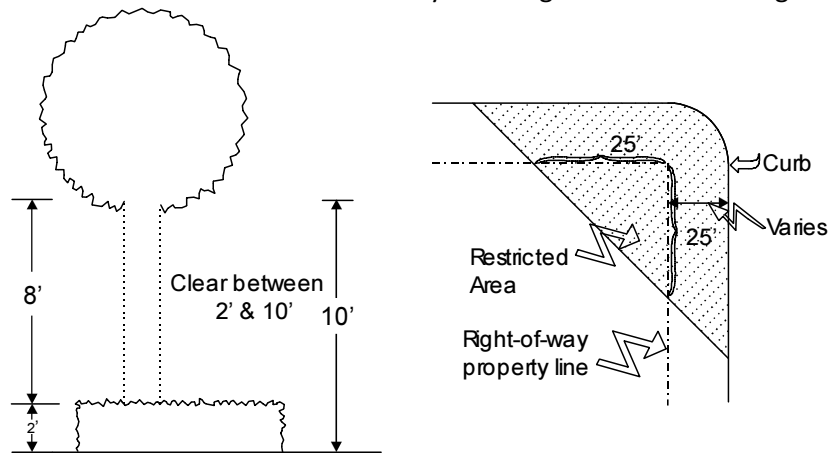
When permitted in a *district*; public and semi-public *buildings, hospitals, institutions, churches, and schools* may be built taller than the zoning *district's* allowed *building height*. However, the required *yard setbacks* shall increase by one foot for each foot the *building* exceeds the zoning *district's* allowed *building height*.

**Section 5.6 Home Occupations:** When permitted, *home occupations* must meet the following standards:

*Home Occupation: Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building.*

- 1) No commercial vehicles are allowed to be used or parked at the residence.
- 2) No more than two rooms normally used as living space may be used for the *home occupation*.
- 3) The use of *accessory buildings, yard space, or activity outside the main building* not normally associated with residential use is not allowed for the *home occupation*.
- 4) The display of goods or services visible outside the *structure* is not allowed.
- 5) The occupation can only be operated by the occupant family of the residence.
- 6) One sign, not exceeding two square feet in area is permitted (See Article 7).

**Section 5.7 Visibility at Intersections and Driveway Entrances:** Visibility at intersections shall comply with the graphic below. The same shall apply to driveway entrances except the required sight triangle distance shall be 15 feet as measured from the intersection of the driveway curb edge with the street right-of-way line.



**Section 5.8 Vehicular Storage and Parking in a Residential Zone:**

- 1) Storage and parking of motor homes, trailers (camping, hauling, travel, or other type) at any *dwelling* or within any residential zone shall be limited to one week, unless the trailer or motor home is located behind the *front yard building line*.
- 2) The occupancy of Camping or *Travel Trailers* or Motor Homes is not allowed, either temporarily or permanently within the incorporated limits of the City of Clarksville unless within an approved *Recreation Vehicle or Travel Trailer Park*. (see Section 5.12)

*Travel Trailer:* The *travel trailer* unit is a temporary single-family *dwelling unit* built on a chassis not exceeding 8 feet wide and 32 feet long designed for short-term occupancy and frequent travel, requiring park services for utility and sanitary facilities. Unit may be self-propelled or towed behind a vehicle without a special permit required.

- 3) Commercial Vehicles less than one and one-half tons may be parked in Residential Zones. One Commercial Vehicle less than one and one-half tons is allowed per Family living at the *dwelling*.
- 4) Commercial Vehicles (previously or currently used commercially) over one and one-half tons are not allowed in a Residential Zone.

**Section 5.9 Mining, Excavation, And Material Storage:**

*Mining, Excavation, and Material Storage:* The extraction, removal, or storage of clay, gravel, or sand; quarrying of rock or stone; earth moving and excavation; depositing of construction material, clay, earth, gravel, minerals, rocks, sand, or stone on the ground.

Mining, excavation, and the storage of mined or excavated materials in any zoning *district* shall require a Special Use Permit (see Article 4). However, the following activities do not require a Special Use Permit:

- 1) The grading of land for a permitted use, if no bank more than 10 feet high is left standing and exposed.

- 2) Grading in a subdivision approved by the City.
- 3) An extractive or mining operation existing and operating when this code was passed.

**Section 5.10 Construction within Floodplain Area:** The following regulates flood hazard areas. The boundaries of the floodway or floodplain area shall be determined from the official Flood Hazard Boundary Map or the official Flood Insurance Rate Map. No *building* or *structure* of any kind is allowed within a designated floodway. Any *structure* within a 100-year floodplain area shall comply with the following standards:

- 1) The *structure's* lowest floor elevation, including basements, shall be at least 2 feet above the Base Flood Elevation.
- 2) Nonresidential *structures* together with any associated utility and sanitary facilities shall be flood proofed up to the level of the 100-year flood in compliance with the Arkansas State Fire Prevention Code and other adopted building codes in Clarksville.

To obtain a building permit within a designated floodplain area, the applicant must provide adequate engineering data with the permit application to allow the Administrative Official to determine if the requirements of this Section can be met.

**Section 5.11 Recreational Vehicle or Travel Trailer Parks:** *Recreational Vehicle or Travel Trailer Parks* for short-term temporary occupants are only allowed within commercial *districts* as permitted. (see Section 3.2.5) RV or *Travel Trailer Park* sites should be well-drained and properly graded in order to insure rapid drainage and prevent the pooling of water. There is no maximum density requirement for *Travel Trailer Parks*. However, all *travel trailers* shall be separated from each other by at least 10 feet. The separation requirements include any *accessory* or supporting *structures* like awnings or carports.

*Travel Trailer Park/ Recreational Vehicle Park:* A unified development under private ownership designed primarily for transient service, on which *travel trailers*, pick-up coaches, and self-propelled motorized vehicles are parked or situated for short-term occupancy. The owner shall provide park services for utility and sanitary facilities.

Plans for a *Recreation Vehicle or Travel Trailer Park* shall be submitted to the Administrative Official for approval and issuance of a building permit. The plans submitted shall include at least the following:

- 1) Adequate space dimensions to accommodate the different sizes of expected vehicles.
- 2) *Street* and access roads located within the *travel trailer park*.
- 3) Service *building* plans to house restrooms, lavatories, showers, and other sanitary facilities as required by State Department of Health for the number of spaces available in the park.
- 4) Water and sewer services for each trailer space.
- 5) Electrical master fuse or breaker panel, and receptacles in compliance with the electrical code used by the City.
- 6) Trash containers placed for every two trailer *parking spaces*.
- 7) Letter of approval from State Department of Health.



The Administrative Official will review the plans and application, and issue a building permit if the plans and application meet the required standards and all applicable City ordinances.

**Section 5.12 Manufactured Home Subdivision:** Where permitted in residential zoning *districts*, development of *Manufactured Homes* Subdivisions will be governed by the Clarksville Land Subdivision and Development Code. All *manufactured homes* will be subject to the requirements of Section 5.15.

**Section 5.13 Manufactured Home Parks:** Where permitted, any new or existing *Manufactured Home Park* that is expanded must meet the standards and requirements of this Section.

**5.13.1 Development Standards:** *Manufactured Home Parks* are required to meet the terms of the following guidelines:

- 1) Be located on a well-drained site that is graded to insure rapid drainage and prevent pooling of water.
- 2) Be located on at least 2 acres of land.
- 3) Meet the *setback* and area requirements for *Manufactured Homes* Parks listed in Section 3.1.4.
- 4) Be designed to accommodate at least five *manufactured homes*.
- 5) *Manufactured homes* must be placed to provide at a least 20 foot clearance between *manufactured homes*.
- 6) All *manufactured home* spaces must directly access a hard-surfaced driveway that is at least 20 feet in width. The driveway must have unobstructed access to a public *street*.
- 7) Internal *streets* and drives shall be designed for safe and convenient access to all *manufactured home* spaces. These *street* and drives shall be privately owned, built, and maintained. They shall be at least 20 feet wide and be built with bituminous asphalt or concrete.
- 8) Provide two off-street *parking spaces*, which are 9 feet wide and 20 feet long, for each *manufactured home* space.
- 9) Set aside *open space* as required by the Arkansas Health Department.
- 10) *Manufactured homes* shall be set up and anchored according to the manufacturer's instructions as recognized by the Arkansas Manufactured Home Commission.

**5.13.2 Approval Procedure:** All licenses and permits as required by the City of Clarksville in this Code or other applicable Ordinances shall be fully complied with before the park is open to occupants.

- 1) The owner or developer shall submit a Letter of Intent and the preliminary plans for development of the *Manufactured Home Park* to the Planning Commission for review and approval. This is required prior to preparation of a final plat to insure conformity with plans and regulations.

- 2) The preliminary plans submitted shall include an approval by the Clarksville Light and Water Company, the natural gas utility, and any other utilities or City governmental departments that may become involved in the final development of the site.
- 3) The *Manufactured Home Park* owner and developer shall submit evidence indicating that he is responsible for the complete cost of the development including site preparation, *Manufactured Home* spaces, installation of all utilities, driveways, parking areas, park facilities and recreational facilities.
- 4) After review of the submitted Letter of Intent, preliminary plans, and other information, the Planning Commission may approve these plans if it finds that all appropriate regulations have been followed.
- 5) After approval by the Planning Commission, the developer shall prepare a final plat of the proposed *Manufactured Home Park*. This plat shall be prepared by a Registered Professional Engineer in accordance with the Land Subdivision and Development Code of the City of Clarksville. A building permit for construction of the park cannot be issued until a final plat has been approved for the *Manufactured Home Park* site.

**Section 5.14 Manufactured Homes:** Where permitted, *manufactured homes* meet all of the following requirements and limitations:

*Manufactured Home:* A dwelling unit constructed in a factory in accordance with the *Federal Standards* and meeting the definitions set forth in the *Federal Standards* and under Arkansas Code Annotated § 20-25-102.

*Federal Standards:* The Federal Manufactured Home Construction and Safety Standards promulgated by the United States Department of Housing and Urban Development under the authority of 42 U.S.C. 5401 et. seq., as it existed on January 1, 1976.

- 1) The *Manufactured Home* must have all necessary *building* and occupancy permits and other certifications required by the City for a *dwelling unit*.
- 2) The front door of the home must be oriented to the front of the *lot*. No variances or exceptions to the required *yard setbacks* are allowed.
- 3) The home shall be installed in accordance with the manufacturer's instructions as recognized by the Arkansas Manufactured Home Commission, including site preparation, pier foundations-footings, pier support columns, and anchoring. Installation shall include *building* a perimeter foundation enclosure. The enclosure shall be of materials approved by the City of Clarksville and installed in conformance with the manufacturer's installation instructions.
- 4) The home shall be covered with an exterior material customarily used on site-built residential *dwellings*.
- 5) The home shall have a pitched roof that is covered with materials customarily used on site-built residential *dwellings*, such as fiberglass, shake, asphalt or tile.
- 6) The home must only be used as a *single-family dwelling*.
- 7) *Manufactured Homes* in an R-2 (AH) zone shall be multi-sectional and shall have all elements of transportation, (hitches, wheels, axles,) removed.

**Section 5.15 Mobile Homes:** *Mobile homes* are prohibited in the City of Clarksville. Any existing *mobile home* shall only be replaced by a *manufactured home*.

*Mobile Home:* A dwelling unit constructed in a factory before the enactment of the *Federal Standards*.

*Federal Standards:* The Federal Manufactured Home Construction and Safety Standards promulgated by the United States Department of Housing and Urban Development under the authority of 42 U.S.C. 5401 et. seq., as it existed on January 1, 1976.

**Section 5.16 Free-standing vending machines:** *Free-standing vending machines* shall be the *main building* on a *lot* and shall provide adequate off-street access and parking so that traffic on a public *street* is not blocked or impeded.

*Free-Standing Vending Machine:* A coin operated machine that dispenses merchandise intended as a stand-alone business to be accessed by automobile.

**Section 5.17 Driveways:** The City does hereby adopt the Arkansas State Highway Department's standards, except as set forth in Sections 1- 3, below, as related to commercial and *residential driveway* widths, *setback* requirements from corners, and distance requirements between ingress and egress drives. Any such construction within the City shall meet or exceed the requirements set forth by said state standards.

- 1) Driveways used for residential ingress and egress may have a width equal to 36% of the street-side *lot width* used for the ingress but shall not exceed 36 feet in width, exclusive of curb returns. In the case of multiple frontage *lots*, the side used for the ingress shall be used as the basis for the calculation. Driveways used for commercial/industrial ingress and egress shall not exceed 40 feet in width, exclusive of curb returns.
- 2) On any new driveway, the construction shall include the removal of any curbs so that the driveway itself will be *street* level. Surface requirements as set out in Article VI, Section 3 shall apply.
- 3) Before construction of any new driveway, or relocation, or alterations in dimensions of any existing driveway connecting to a city *street*, the owner must apply for a driveway permit by completing application and paying the designated fee, in the office of the City Clerk. The City reserves the right to have access plans to be reviewed by the Planning Commission in cases where traffic flow and safety may be a concern.

**Section 5.18 Sidewalks:** Sidewalk requirements shall be addressed in all building permits. Construction standards shall be adopted by the City. Following are minimum requirements; the City may require additional sidewalks and wider sidewalks near commercial areas, schools and other places of public assembly.

- 1) Sidewalks shall be constructed on both sides of all *streets* in the Central Business District.
- 2) Sidewalks shall be required on both sides of collector *streets* and major arterials and minor arterials when new sidewalk will be constructed within 300 feet of existing sidewalks. Sidewalks shall be required on both sides of collector *streets* and major arterials and minor arterials when the entire area is a new development or part of a new commercial subdivision.
- 3) Sidewalks shall be constructed on both sides of all residential *streets*, abutting property lines. The sidewalks will be constructed in conjunction with the *building* and driveway improvements on each *lot*.

- 4) Sidewalks shall be in compliance with the Americans With Disabilities Act.
- 5) Questions or appeals concerning the construction of sidewalks must be addressed prior to the approval of a site plan and the issuance of a building permit.

**Section 5.19 Live/Work Units:** In addition to any Special Use Permit requirements (see Article 4), *Live/Work Units* shall also be subject to the following requirements and standards:

*Live/Work Unit: A building used jointly for commercial and residential purposes where the residential use of the building is secondary or accessory to the primary use as a place of work.*

- 1) Residential use of the *structure* and property shall be clearly secondary or *accessory* to the commercial use of the *structure*.
- 2) The residents of the *Live/Work Unit* shall be limited to one family unit that includes the owner or employee of the commercial use within the *structure*.
- 3) The commercial use of the property must be otherwise allowed in the zoning *district*, but shall not include *sexually oriented businesses* or warehousing.
- 4) The front *façade* of the *structure* must be maintained to appear commercial in nature.
- 5) The commercial portion of the *structure* must be contained at least in part on the first floor of the *structure* and be accessed from the front *façade* of the *building* facing the *street*.
- 6) The commercial and residential portions of the *building* shall be physically separated, with those portions of the *structure* accessible to the public occupied by commercial space.
- 7) In C-1 zones, the property shall be required to provide two off-street *parking spaces* for the *structure*. This parking requirement can also be met through an offsite parking agreement with a different property within 300 feet. In all other districts, off-street parking shall be provided to meet the requirements of the commercial use of the property.
- 8) The residential portions of the *structure* must have separate kitchen and sanitary facilities.
- 9) All portions of the *structure* must the requirements of the Arkansas State Fire Prevention Code.

**Section 5.20 Accessory Dwelling Units:** In addition to any Special Use Permit requirements (see Article 4), *Accessory Dwelling Units* shall also be subject to the following requirements and standards:

*Amended: Ord. 2014-732*

*Accessory Dwelling Unit: A smaller, secondary site-built dwelling unit on the same lot as an existing single-family dwelling. The unit includes its own independent living facilities with provisions for sleeping, cooking, and sanitation, designed for residential occupancy independent of the primary dwelling unit.*

- 1) Owner Occupancy: The property owner must permanently occupy either the *Principal Building* or the *Accessory Dwelling Unit*.

- 2) Maximum Occupancy: Occupancy of the *Accessory Dwelling Unit* shall be limited to one family, with only one room provided for sleeping.
- 3) Number Allowed: Only one *Accessory Dwelling Unit* per *lot* shall be allowable.
- 4) Size Limits: The *Accessory Dwelling Unit* must be less than 40% of the size of *Principal Building* or 800 square feet in gross floor area, whichever is less. It must also be at least 400 square feet in gross floor area.
- 5) Setbacks: The unit shall meet all the required *setbacks* for the *Principal Building* of the zone in which it is located. The structure must be located at least 10 feet away from the *Principal Building*, and no more than 30 feet from the *Principal Building*.
- 6) Location and Orientation: The unit must be placed within the rear yard of the *lot*, behind the *Principal Building*. The front door of the unit must be oriented towards the principal building.
- 7) Design: The *façade* materials of the unit must match or complement the *façade* materials of the *Principal Building*.
- 8) Parking: One additional off-street *parking space* shall be provided adjacent and abutting to the existing required parking area for the *Principal Building*.
- 9) Utilities: The *Accessory Dwelling Unit* shall be provided separately metered water and electric utilities that are directly connected to the public water and electric systems.
- 10) After the *Accessory Dwelling Unit* is approved and before a building permit is obtained, the property owner shall file a deed restriction with the Johnson County Clerk. The deed restriction shall contain a reference to the deed under which the property was acquired by the current property owner and state the following:
  - A. The *Accessory Dwelling Unit* shall not be sold separately from the *principal building*.
  - B. The *Accessory Dwelling Unit* is restricted to the size approved by the Planning Commission.
  - C. The property owner shall permanently reside on the property.
  - D. All of these restrictions are binding upon all successive owners of the property, and shall run with the property.

## ARTICLE 6. OFF-STREET PARKING AND LOADING REQUIREMENTS

The provisions of this Article shall apply to any permit or approval granted through this Code. The requirement applies regardless of any pre-existing use, condition, or non-conformity.

**Section 6.1 Off-Street Parking Requirements:** Off-street parking must meet the following standards.

**6.1.1 Standards:** These parking standards apply in all zoning *districts* except the C-1, Central Business District. Whenever a *building* or development is built, made larger, or increased in capacity; the standards below must be met. Parking, back out spaces, and fire truck access must also meet all requirements of Arkansas State Fire Prevention Code. Spaces shall be constructed on the property owner’s property and out of the *street* right-of-way or any easements.

Use	Standards
	Required Spaces
<i>Single-Family Dwelling</i>	2 spaces (a)
<i>Two-Family Dwelling</i>	4 spaces (a)
<i>Multi-Family Dwellings (3 or more units)</i>	1.5 per <i>dwelling unit</i> .
<i>Medical/Dental Clinics or Offices</i>	5 spaces per doctor + 2 spaces for each 3 employees.
<i>Hospitals</i>	1 space per bed + 1 space per 2 employees (based on maximum employment of largest shift).
<i>Nursing Homes</i>	1 space for each 6 patients + 1 space for each staff/visiting doctor + 1 space for each 4 employees including nurses.
Community Center/Theater/Auditorium	1 space for each 3 seats, based on maximum seating capacity.
Convention Hall/Lodge/Club/Library/Museum/Place of Amusement or Recreation	1 space for each 50 square feet of <i>floor area</i> used for assembly or recreation in the <i>building</i> .
<i>Office Building</i>	1 space for each 200 square feet of <i>gross floor area</i> in the <i>building</i> , exclusive of the area used for storage, utilities, and <i>building service area</i> .
Restaurants and Eating Places	1 space for each 4 seats of seating capacity + 1 space for each 2 employees working at a given shift.
Commercial Establishments (Not otherwise covered)	1 space for each 150 square feet of floor space in the <i>building</i> used for retail trade, or used by the public, whichever is greater.
Industrial Establishments (Not otherwise covered)	Adequate area to park all employees’ and customers’ vehicles at all times + adequate space for loading, unloading, and storing all vehicles used in connection with the establishment.
Church Sanctuary/Place of Worship	1 space for each 3 seats, based on maximum seating capacity. (c)
All Others (Not otherwise covered)	Determined by the Planning Commission (Determined standard shall apply to the future establishments of the same use)

- a. Required spaces shall be constructed and arranged to allow each space to have direct access to the *street*.
- b. Churches may establish joint parking facilities with public institutions that have different times of primary operation. The joint parking facility may satisfy up to 50 percent of the church’s parking requirements and must be located within 400 feet of the church.

**6.1.2 Application of Standards:** The following requirements must be met when applying the parking standards:

- 1) Joint parking facilities may be allowed for mixed uses or adjacent *structures*. However, the total *parking spaces* of the joint facility must be the same as the total number required for each separate use or *building*, except as allowed by Section 6.1.1, paragraph (b).
- 2) If the calculated number of required *parking spaces* results in a fraction more than one-half (1/2), the fraction will be counted as one (1) *parking space*.
- 3) These standards will apply any time a use is changed, a new *structure* is constructed, or an existing *structure* is expanded.
- 4) Except for *single-family and two-family dwellings*, no *parking space* in any zoning *district* may be designed to require a vehicle to back out into a public *street*.

**6.1.3 Size:** The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than 9 foot by 20 foot plus adequate area for ingress and egress.

**Section 6.2 Off-Street Loading and Unloading Requirements:** These requirements apply to off-street loading and unloading facilities:

- 1) Retail uses shall provide one (1) off-street loading and unloading space for *buildings* with a *gross floor area* of up to 10,000 square feet, plus one (1) space for each additional 10,000 square feet of *gross floor area*.
- 2) Manufacturing, repair, wholesale, and similar uses shall provide one (1) off-street loading and unloading space for *buildings* with *floor area* of up to 10,000 square feet, plus one (1) space for each additional 40,000 square feet of *floor area*.
- 3) Loading and unloading spaces used by tractor-trailers must be at least 12 feet wide and 50 feet long with a height clearance of 14 feet. The spaces must be designed to allow the tractor-trailer adequate maneuvering areas as well as access to the *street* or *alley*.
- 4) No *parking space* may be substituted for a loading space, and no loading space may be substituted for a *parking space*.

**Section 6.3 Surface Requirements:** The following apply to driveway and required off-street parking, loading, and unloading areas:

**6.3.1 Commercial Driveways:** All areas used for parking, drives, sales, loading and unloading of any type, and for use by the general public or employees shall meet or exceed the following: paved with a two inch asphalt surface over a six inch compacted sub-base, or a six inch reinforced concrete surface over a compacted sub-base. Areas used for storage, display, and maneuvering may be graveled.

Commercial Driveways, used only by non-commercial vehicles, to access storage *buildings* by company personnel, and not used by the public in any way, shall meet commercial driveway turnout requirements listed below:

Commercial Driveway Turnouts: The portion of the drive between the edge of the *street* and the *street* right of way line shall be constructed with a minimum of 6 inch reinforced concrete on a stable compacted sub-base.

**6.3.2 Residential Driveways:** *Residential driveways* shall meet or exceed the following: paved with a two inch asphalt surface over a six inch compacted base course, or a four inch reinforced concrete surface over a stable compacted sub-base. The *hard surface* requirements of this section shall not apply to *residential driveway* sections in excess of 100 feet.

Residential Driveway Turnouts: The portion of the driveway between the edge of the *street* and the *street* right of way line shall be constructed with a minimum of four inch reinforced concrete on stable compacted sub-base. This requirement shall not apply to lengths in excess of the first 20 feet per drive.

**6.3.3 Maintenance:** All areas not surfaced as above described shall be landscaped and maintained in such a manner as to prevent dust and soil run off from these areas.



## ARTICLE 7. SIGNS

*Amended: Ord. 2016-762*

**Section 7.1 Purpose:** The purpose of this article is to:

- 1) Promote the creation of an attractive visual environment that promotes a healthy economy.
- 2) Protect and enhance the physical appearance of the community in a lawful manner.
- 3) Foster public safety and welfare of drivers and pedestrians along public and private streets within the community by assuring that all signs are constructed and displayed in a safe manner by avoiding unsafe and harmful visual clutter.
- 4) Have administrative review procedures that allow consistent enforcement, minimize discretion in review, and minimize the time required to review applications.

This article is in addition to regulations established under U.S. Code by the Federal Highway Administration and the Arkansas State Highway and Transportation Department under Regulations for Control of Outdoor Advertising on Arkansas Highways.

**Section 7.2 Rules of Interpretation:** The following rules apply to all signage:

- 1) When determining setback, the leading edge of the sign nearest the curb or edge of street shall be the point from which the setback is determined. All setbacks shall be measured from the property line or the projected edge of the Master Street Plan right-of-way, whichever is greater.
- 2) When determining maximum signage area of a sign, the total area of one side of the sign shall be used, except for signs having more than two sign faces. The total area of all sign faces shall be used for such signs.
- 3) When determining maximum signage area where signage is made from individual letters or figures (sometimes referred to as channel letters), the area shall be calculated by measuring a continuous boundary around the entirety of the signage elements.
- 4) Window signs shall count toward the maximum sign surface area allowed for wall signs.

**Section 7.3 Permit Requirement:** No sign shall be erected, transferred, rebuilt, or structurally altered within the city unless a permit has been issued by the Administrative Official. Addition or modification to the illumination of any existing sign which changes the type or intensity of the lighting shall require a new sign permit. Refacing a sign or a change in message of a permitted sign shall not require a permit unless it involves modification to the electrical or structural components of the signs. A separate permit shall be required for each sign. Electrified signs shall also require an electrical permit.

- 1) Applications: Application for a sign permit shall be made on forms provided by the Administrative Official. Requirements shall include but are not limited to location by street address, names and addresses of owner(s) and sign contractors (s), scale drawing of the sign, scale drawing showing exact location of the sign, and lighting and construction design.

- 2) **Application Approval and Permit Issuance:** The Administrative Official will be charged with review of all sign permit applications based upon the provisions of this code and other applicable regulations. The Administrative Official shall have 20 business days from receipt of the completed application to approve or deny the sign permit application. If the Administrative Official fails to render a decision on a completed sign permit application that appears to meet the provisions of this code and other applicable regulations within 20 business days, the applicant shall be issued a permit for the sign immediately. A written explanation of denial shall be provided for denied permit applications upon request of the applicant. All decisions rendered by the Administrative Official concerning sign permit applications can be appealed to the Board of Adjustment by the applicant.
- 3) **Sign Erection Deadline:** Permit for any sign not erected within six (6) months of date of issuance shall be void.
- 4) **Inspection:** The person or contractor responsible for completion of the sign erection shall notify the Administrative Official upon completion of work. A final inspection shall be required, including electrical inspection, if needed, to confirm compliance with the terms of the sign permit.
- 5) **Fees:** Fees shall be submitted upon approval of the application, in the amount set by the schedule of fees set by the City Council. If a penalty has been assessed for non-compliance, both the penalty and the normal permit fee must be paid before a permit shall be issued.

**Section 7.4 Permit Exemptions:** The following signs are exempted from the sign permit requirements, but must comply with all other requirements of this title:

- 1) Temporary Signs
- 2) Governmental and official public signs, including wayfinding signs.
- 3) Window displays and signs affixed to windows.

**Section 7.5 Prohibited Signs:** The following signs are prohibited within city limits:

- 1) Signs imitating warning signals or which constitute a traffic hazard.
- 2) Billboards.
- 3) Abandoned signs.
- 4) Signs within a public right-of-way, excluding wayfinding signs.
- 5) Signs painted on or attached to trees, rocks, or other natural formations, *fence* posts, street signs, or utility poles.
- 6) Off-premise signs. (See Section 7.7.6)
- 7) Signs affixed or painted on a vehicle or trailer that is parked adjacent to a public right-of-way for more than 5 days.

- 8) Rotating signs.
- 9) Signs containing flashing or intermittent illumination unless part of a permitted Electronic Message Sign.
- 10) Roof signs.

**Section 7.6 Exemptions:** The following are exempted from the provisions of Article 7:

- 1) Signs not visible or which are clearly not intended to be visible from the public right-of-way.
- 2) Flags of any nations, government, or non-commercial organization. Flags must be flown in accordance with the federal flag code established by the United States Congress. Any flag not meeting the federal flag code shall be considered a sign and shall not be exempted from these regulations.
- 3) Signs which are mandated to be displayed by law or action of a governmental entity.
- 4) Any display or construction not defined as a sign.
- 5) Art displays that do not contain a commercial message.
- 6) Signs for sexually oriented businesses. (Regulated by separate ordinance)

**Section 7.7 Standards:** The following apply to all signs:

**7.7.1 Prevention of Access:** No sign shall be erected which prevents free ingress and egress from any driveway, parking lot, or structure door, window, or fire escape. No sign of any kind will be attached to any part of a fire escape or building standpipe.

**7.7.2 Obstruction of Vision:** In addition to the provisions of Section 5.7, no sign shall be placed in manner that would allow it to obstruct the vision of drivers and pedestrians at driveway entrances

**7.7.3 Interference with Utilities:** No sign shall be located:

- 1) Within the designated safety zone of overhead electrical conductors as directed by the utility owner.
- 2) Within 10 feet of a fire hydrant.
- 3) Upon any easement.

**7.7.4 Illumination adjacent to Residential Areas:** If facing or adjoining a residential lot line or district, except R-O, no freestanding sign or wall sign on a side or rear façade shall be internally illuminated unless shielded in a manner to minimize the trespass of light into the residential lot or district. This provision shall apply to signs within R-O zones facing or adjacent to other residential lots or districts.

**7.7.5 Construction Standards:** All signs and sign structures permitted herein shall conform to the applicable building and electrical codes adopted by the City of Clarksville. All signs, except Temporary Signs, shall be

constructed of materials that are durable and permanent in nature, and permanently affixed through secure anchoring to the ground or a building. Temporary signs shall be securely anchored to the ground or a building in a non-permanent fashion.

**7.7.6 Content of Signs:** These regulations are not intended to regulate the message or content of non-commercial signs or temporary signs, meaning only signs with a commercial message are subject to the off-premise signage prohibition. A sign with a non-commercial message may substitute a sign with a commercial message, provided it meets all requirements of this code.

**Section 7.8 Temporary Signs:** Temporary signs shall not be electrified or illuminated.

**7.8.1 Temporary Signs – Type 1:** Temporary sign allowed while a building or property is under construction or renovation.

- 1) Allowable Zones: All zones
- 2) Maximum Size: 16 square feet in residential zones, 50 square feet in all other zones
- 3) Maximum Height: 10 feet
- 4) Minimum Setback: 10 feet
- 5) Number Allowed: 1 sign per lot

**7.8.2 Temporary Signs – Type 2:** Temporary sign allowed while a property or building is for sale, lease, or rent.

- 1) Allowable Zones: All zones
- 2) Maximum Size: 6 square feet in residential zones, 32 square feet in all other zones
- 3) Maximum Height: 10 feet
- 4) Minimum Setback: 10 feet
- 5) Number Allowed: 1 sign per lot

**7.8.3 Temporary Signs – Type 3:** Temporary Signs.

- 1) Allowable Zones: All zones
- 2) Maximum Size: 6 square feet in residential zones, 32 square feet in all other zones
- 3) Maximum Height: 10 feet
- 4) Minimum Setback: 10 feet
- 5) Number Allowed: 1 sign per lot

- 6) Time: Signs may be displayed a maximum of 30 consecutive days within a 90 day period. The 90 day period shall be counted to begin from the first day a temporary sign is displayed. The sign shall be allowed to be displayed only within the first 30 consecutive days of the 90 day period.
- 7) Other Requirements: To be valid and allowed such signs shall require a sticker from the Administrative Official to be affixed to the sign indicating the starting and expiration date for when the sign will be displayed. The starting date shall not be more than 15 days after the date which the sticker is requested from the Administrative Official.
- 8) Election Period: During a period of 120 days prior to and 7 days after any public election authorized by the Johnson County Election Commission, items 5, 6, 7 of this subsection shall not apply to temporary signs.

#### **7.8.4 Temporary Signs – Type 4: Sandwich Board Signs.**

- 1) Allowable Zones: C-1
- 2) Maximum Size: 12 square feet
- 3) Maximum Height: 4 feet
- 4) Number Allowed: 1 sign per building
- 5) Placement: The sign shall be placed on private property, or may be placed on a public or private sidewalk. The sign shall be placed such that sidewalk remains ADA compliant with at least five (5) feet of total sidewalk width clear of any obstructions.
- 6) Time: Signs may be displayed only from 7 a.m. in the morning to 10 p.m. in the evening each day.

### **Section 7.9 Sign Standards by Type:**

#### **7.9.1 Electronic Message Signs:**

- 1) Sign Type and Zoning: Electronic message signs shall only be allowed on freestanding signs in C-2 and C-3 zones.
- 2) Size: The maximum sign surface area of an electronic message sign shall not exceed 32 square feet. Such sign may be considered part of a larger freestanding sign and count against the maximum allowable surface area of the freestanding sign.
- 3) Dimming and Brightness: Signs shall be equipped with dimming technology that automatically adjusts the display brightness based on ambient light conditions. The sign shall not exceed 0.3 foot candles of illumination above ambient light level.
- 4) Flashing Illumination and Movement: The illusion of movement by means of a preprogrammed (repetitious or sequential) switching action in which illuminated elements of the sign are turned off or on to visually simulate the impression of motion characteristic of flashing, chasing, running,

blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns, is prohibited.

- 5) Rate of Change: No electronic message sign shall change copy more frequently than once every 8 seconds.

**7.9.2 Wayfinding Signs:** Wayfinding signs shall be allowed on public property or within a public right-of-way under the following conditions:

- 1) Entity: The sign shall direct the reader to the location of a public or educational institution, a facility operated by a non-profit entity that is intended to attract out-of-town patrons, a facility relating to the public safety and welfare or public health, a scenic or historic structure, or trails and parks.
- 2) Approval and Installation: Wayfinding signs must be expressly approved by the Administrative Official and any additional authority having jurisdiction. The signs must be fabricated, installed, and maintained by the City or its agent.
- 3) Traffic Hazard: The signs shall not be allowed to be installed in a location or manner that would constitute a hazard to vehicles or pedestrians.
- 4) Maximum Number: The maximum number of signs allowed each entity shall be 7. This limitation shall not apply to scenic or historic structures and trails or parks.

**7.9.3 Wall Signs and Roof Signs:**

- 1) Placement: A wall sign shall not project above the façade on which it is mounted. Wall signs shall not be allowed on roofs. A mansard roof shall be considered a façade under the terms of this Article. Signs affixed to roofs are prohibited.

**Section 7.10 Signs Allowed by Zoning District:**

**7.10.1 Central Business District (C-1):**

- 1) Wall Signs:
  - A. Maximum Size and Number: The maximum number of wall signs shall be limited by the total sign surface area permitted for wall signs. The total sign surface area for all wall signs shall not exceed 2 square feet for each linear foot of *building* façade or 100 square feet, whichever is less. These requirements shall apply independently to each *building* façade. Signs upon awnings shall be considered wall signs. No wall signs shall be allowed to project above the roof line of the *building* façade.
- 2) Projecting Signs:
  - A. Maximum Size: 10 square feet for signs at least 80 inches above the surface grade of the sidewalk; 40 square feet for signs at least 12 feet above the surface grade of the sidewalk.
  - B. Number: 1 per building façade

- C. Minimum Height: 80 inches above the surface grade of the sidewalk
- D. Distance from Street: All elements of the sign including any support structures must be at least 2 feet from back of the curb of the adjacent street.

3) Temporary Signs: See Section 7.8

### **7.10.2 Neighborhood Commercial and Quiet Business (C-2):**

1) Wall Signs:

A. Maximum Size and Number: The maximum number of wall signs shall be limited by the total sign surface area permitted for wall signs. The total sign surface area for all wall signs shall not exceed 10% of the total area of the wall on which the sign is placed. These requirements shall apply independently to each *building* façade. In the case of multi-tenant structure, each tenant space shall be considered a separate *building* façade.

2) Projecting Signs:

- A. Maximum Size: 10 square feet
- B. Number: 1 per building façade in a single tenant structure or 1 per tenant space in a multi-tenant structure
- C. Minimum Height: 8 feet above the surface grade of the sidewalk

3) Freestanding Signs:

A. Maximum Sign Surface Area: The maximum size for a free-standing sign for a single tenant structure shall be 100 square feet. The sign surface are shall not exceed one square foot for every four linear feet of public street frontage, counted from along the street where the sign will be placed.

The maximum size for a free-standing sign for a multi-tenant structure shall be 200 square feet. The sign surface are shall not exceed one square foot for every three linear feet of public street frontage, counted from along the street where the sign will be placed.

- B. Number: 1 per main building
- C. Maximum Height: 20 feet above the surface grade of the street
- D. Minimum Setback: 10 feet, 5 feet if ground-mounted and not exceeding 8 feet in height
- E. Electronic Message Sign: Allowed, See Section 7.9

4) Temporary Signs: See Section 7.8

### 7.10.3 Highway Commercial (C-3):

1) Wall Signs:

A. Maximum Size and Number: The maximum number of wall signs shall be limited by the total sign surface area permitted for wall signs. The total sign surface area for all wall signs shall not exceed 10% of the total area of the wall on which the sign is placed. These requirements shall apply independently to each *building* façade. In the case of multi-tenant structure, each tenant space shall be considered a separate *building* façade.

2) Projecting Signs:

A. Maximum Size: 10 square feet

B. Number: 1 per building façade in a single tenant structure or 1 per tenant space in a multi-tenant structure

C. Minimum Height: 8 feet above the surface grade of the sidewalk

3) Freestanding Signs:

A. Maximum Sign Surface Area: The maximum size for a free-standing sign for a single tenant structure shall be 150 square feet. The sign surface area shall not exceed one square foot for every four linear feet of public street frontage, counted from along the street where the sign will be placed.

The maximum size for a free-standing sign for a multi-tenant structure shall be 250 square feet. The sign surface area shall not exceed one square foot for every three linear feet of public street frontage, counted from along the street where the sign will be placed.

B. Number: 1 per main building

C. Maximum Height: 35 feet above the surface grade of the street, an additional 15 feet in height is permitted if the sign is to be located within 150 feet of the right-of-way of an Interstate Highway.

D. Minimum Setback: 10 feet, 5 feet if ground-mounted and not exceeding 8 feet in height

E. Electronic Message Sign: Allowed, See Section 7.9

4) Temporary Signs: See Section 7.8

5) Commercial Cul-de-sac: A commercial subdivision forming a cul-de-sac for individual commercial lots may have a freestanding sign located at the entrance to the cul-de-sac. Such sign shall not exceed 35 feet in height above street grade, and shall be located in such a manner not to restrict the view of traffic entering or exiting the subdivision.



**7.10.4 Industrial Zones (I-1 & I-2):**

1) Wall Signs:

A. Maximum Size and Number: The maximum number of wall signs shall be limited by the total sign surface area permitted for wall signs. The total sign surface area for all wall signs shall not exceed 10% of the total area of the wall on which the sign is placed. These requirements shall apply independently to each *building* façade. In the case of multi-tenant structure, each tenant space shall be considered a separate *building* façade.

2) Projecting Signs:

A. Maximum Size: 10 square feet

B. Number: 1 per building façade in a single tenant structure or 1 per tenant space in a multi-tenant structure

C. Minimum Height: 8 feet above the surface grade of the sidewalk

3) Freestanding Signs:

A. Maximum Sign Surface Area: The maximum size for a free-standing sign for a single tenant structure shall be 150 square feet. The sign surface are shall not exceed one square foot for every four linear feet of public street frontage, counted from along the street where the sign will be placed.

The maximum size for a free-standing sign for a multi-tenant structure shall be 250 square feet. The sign surface are shall not exceed one square foot for every three linear feet of public street frontage, counted from along the street where the sign will be placed.

B. Number: 1 per main building

C. Maximum Height: 35 feet above the surface grade of the street, and additional 15 feet in height is permitted if the sign is to be located within 150 feet of the right-of-way of an Interstate Highway.

D. Minimum Setback: 10 feet, 5 feet if ground-mounted and not exceeding 8 feet in height

**7.10.5 Residential and Agricultural Zones (R-1, R-2, R-2AH, R-3, R-4, R-O, A-1):**

1) Residential Uses:

A. General Requirements: Internal or external illumination is prohibited.

B. Wall Signs:

1. Number: 2 on front façade

2. Maximum Sign Surface Area: 2 square feet per sign, 4 square feet total

C. Temporary Signs: See Section 7.8

2) Non-Residential Uses:

- A. General Requirements: Internal or external illumination is allowed. See Section 7.7.4
- B. Wall Signs:
  - 1. Number: 1 on front façade
  - 2. Maximum Sign Surface Area: 32 square feet
- C. Freestanding Signs:
  - 1. Number: 1
  - 2. Maximum Sign Surface Area: 32 square feet.
  - 3. Maximum Height: 8 feet above the grade of the street or surface grade, whichever is greater. Sign shall be ground-mounted.
  - 4. Minimum Setback: 10 feet
- D. Temporary Signs: See Section 7.8

**7.10.6 Planned Unit Development (PUD):** All signs in the PUD *districts* shall be submitted for review and approval as part of the PUD approval process.

**Section 7.11 Billboards:** The following regulations apply to billboards in the City of Clarksville.

**7.11.1 Placement:** Placement of billboards is not allowed anywhere within the city limits of Clarksville.

**7.11.2 Existing Billboards:** Existing billboards lawfully permitted by the State or Federal Highway Agencies shall be allowed to remain under the terms of the issuing agencies' agreement and permit for such signs. If damaged to an extent beyond one-half (1/2) of its current replacement cost, it shall not be replaced.

**Section 7.12 Administration and Enforcement**

**7.12.1 Responsibility and Maintenance:** Any person having express or implied authority over the size, appearance, and/or location of a sign, together with the landowner or lessor upon which the sign is sited, shall be responsible for causing the sign to be in full compliance with this ordinance and shall be jointly and severally liable for any violations of this ordinance. All sign(s)/sign structure and premises surrounding the same shall be maintained in a clean, sanitary condition and free and clear of all rubbish and weeds. All sign components, including supports, braces, anchors, etc., shall be kept in compliance with all building and electrical codes, and in conformance with the requirements of this Code. All components should be free from deterioration, termite infestation, rot, rust or loosening. Repair and replacement of any faded, peeled, cracked or otherwise damaged or broken parts of a sign is required by this Code.

**7.12.2 Violations:** Violations shall be handled according to the provisions of Article 12 of this Code.

**7.12.3 Removal of Signs:** The Administrative Official shall have the authority to remove any sign placed within a dedicated or prescriptive public right-of-way.

## **Section 7.13 Non-conforming Signs**

**7.13.1 General:** Non-conforming signs shall be brought into compliance or eliminated by attrition. A nonconforming sign shall not be relocated, replaced, expanded, or altered except to bring the sign into compliance with this Code. Non-conforming signs which have been deemed abandoned shall be removed. Non-conforming signs damaged to an extent beyond one-half (1/2) of its current replacement cost, shall not be replaced or repaired. Where a sign is non-conforming due to an encroachment of the required setback, such sign may be structurally altered or expanded without a variance. The expansion or alteration shall not reduce the amount of the sign's existing setback, and the sign must have an existing setback of at least 5 feet from the property line or master street plan right-of-way, whichever is greater.

## ARTICLE 8. WIRELESS COMMUNICATION FACILITIES

**Section 8.1 Purpose:** The following regulate the construction, placement and operation of Wireless Communication Facilities.

*Wireless Communication Facility:* A wireless communication facility is defined as any unstaffed facility covered by the Federal Telecommunications Act of 1996 for the transmission and/or reception of wireless telecommunication services, usually consisting of an *Antenna Array*, connection cables, an *Equipment Facility*, and a Support Structure, also known as an antennae or tower, to achieve the necessary elevation.

### Section 8.2 General:

**8.2.1 Special Use Permit Required:** A special use permit is required for *Wireless Communication Facility* construction, placement, and operation.

**8.2.2 Wireless Communication Facilities Permitted:** These regulations are not intended to effectively prevent or eliminate the construction, placement, and operation of Wireless Communication Facilities. The City Council may refuse to grant any permit if it is not in the best interest of the City of Clarksville as determined by the City Council.

### Section 8.3 Application:

**8.3.1 Special Use Permit Application:** The application for a special use permit shall be made to the office of the Mayor by the owner or agent of the proposed *Wireless Communication Facility*.

1) The completed application, including all supporting documents, must be received by the Mayor's office at least thirty (30) working days before the date that work is expected to begin. The fee for processing a special use application is Five Hundred Dollars (\$500.00). The following must be provided with the special use permit application:

- A. The *street* address or addresses for the property.
- B. The zoning classification of the property
- C. Description of the proposed use of the property.
- D. A copy of the appropriate FCC license or license application.
- E. The projected route of truck traffic to and from the operation site including the projected number of trips. The number of trips and route may be regulated by the City Council.
- F. A drawing or other rendering depicting the *Wireless Communication Facility*. Said drawing should indicate any artificial illumination or signage, logo, decal, symbol or any other message of a commercial or noncommercial nature.
- G. A drawing and description of the height of the *Wireless Communication Facility* as well as its width at the base and a detailed description of the length and type of guide wires or other item used to stabilize the *Wireless Communication Facility*.

- H. A description and drawing of opaque security *fence* not less than six (6) feet in height.
- I. The pertinent and relevant Federal Aviation Regulations and proof that the *Wireless Communication Facility* complies.
- J. A statement agreeing to allow collocation of other Wireless Communications Facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The Co-location Agreement shall be considered a condition of issuance of a Special Use Permit.
- K. Applicants proposing to collocate on an existing *wireless communication facility* shall include a Radio Frequency Intermodulation Study with their application.
- L. In addition to the above information, the applicant shall submit supporting documents that may be required by the City Council. If additional information is requested, an additional seven (7) working days shall be required for the processing of the application.

2) A site plan of the proposed use and survey of the property is required to be provided with the application. Four (4) copies are required that meet the following requirements:

- A. The site plan and survey must be prepared by a registered land surveyor or civil engineer.
- B. Be provided on paper no smaller than 12 inches by 24 inches, and no larger than 24 inches by 36 inches.
- C. Be drawn to a scale of one (1) inch equals twenty (20) feet, or other scale approved by the City Council.
- D. Show the total land parcel used for the Wireless Communication Facility with a written legal description of the property.
- E. Indicate the location and dimensions of all public rights-of-way on or abutting the property.
- F. Show Location of all points of vehicular entrance and exit to the site and the Location and dimensions of all existing easements and public improvements on the property.
- G. The location of permanent or temporary *structures* or proposed *structures* to be placed on the property.
- H. Location of all security fencing around the site.
- I. Scaled elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the *wireless communication facility* and all associated improvements. This must include information concerning specifications, antenna locations, *equipment facility* and shelters, landscaping and screening, topography, adjacent uses and existing vegetation.

**8.3.2 Limitations:** The City Council may impose reasonable conditions and restrictions upon the application in order to limit the impact of the special use permit operation upon nearby property or public property. The limitations placed upon a special use permit may include, but are not limited to:

- 1) Limitations on height.
- 2) Limitations on width at base.
- 3) Landscaping and screening.
- 4) Collocation with other wireless communication providers.
- 5) Use of pre-existing *structures*.
- 6) Method of controlling traffic (flagman or traffic control device may be required at contractor's expense.
- 7) Weight limits to be determined by the Mayor or his/her designated agent).
- 8) The number of hours that site preparation work can be conducted on the premises may be regulated by the City Council to minimize harmful effects on nearby property owners.

**Section 8.4 Regulations:** The applicant must be in compliance with the FAA Regulations and must also meet the following conditions:

**8.4.1 Collocation:** All Wireless Communication Facilities shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other Wireless Communication Facilities. Applicants proposing a new *Wireless Communication Facility* shall demonstrate that it has made a reasonable good faith attempt to find a collocation site. Competitive conflict and financial burden are not deemed to be adequate reasons against collocation.

**8.4.2 Antenna Array:** All Wireless Communication Facilities with *support structures* up to a height of 150 feet shall be engineered and constructed to accommodate at least a three (3) *antenna array*. All Wireless Communication Facilities with *support structure* that exceed 150 feet in height shall be engineered and constructed to accommodate at least four (4) *antenna array*.

**8.4.3 Additional Requirements:** All reasonable conditions required for a special use must be met before any operations may begin. The owner or applicant filing for a special use permit shall sign a binding agreement with the City of Clarksville that all damages to public property related to this operation, for which the owner or applicant is legally responsible, shall be repaired at the expense of the applicant. The Mayor shall determine the condition of public facilities (including photos and documentation) prior to the initiation of the operation. A bond, for a reasonable amount, shall be required for the amount determined by the City Council. Immediately after completion of the *Wireless Communication Facility*, repairs will commence on the damage that has been done to the public property. Failure of the applicant to correctly repair all damaged public facilities, for which it has been determined responsible, may result in the revocation of all existing permits for said company and the City Attorney is authorized to take what means are necessary to insure that the public facilities are repaired.

**8.4.4 Removal of Abandoned Wireless Communication Facilities:** Any *Wireless Communication Facility* that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the wireless communication facility owner shall remove the *wireless communication facility* within ninety (90) days after notice from the City to remove the *wireless communication facility*. If the abandoned *wireless communication facility* is not removed within 90 days, the City may remove it and recover its costs from the *wireless communication facility* owner. If there are two or more users of a single *wireless communication facility*, this provision shall not become effective until all providers cease to use the *wireless communication facility*. If the owner of an abandoned wireless communication facility cannot be located or is no longer in business, the Requirements of this section shall be the responsibility of the landowner on whose property the *wireless communication facility* is located.

**8.4.5 Nonconforming Wireless Communication Facilities:** Wireless Communication Facilities constructed and in existence on the date of the adoption of this Article which do not comply with the requirements of this Article (nonconforming wireless communications facility) are subject to the following conditions:

**8.4.6 Expansion:** Nonconforming wireless communication facilities may continue, but may not be expanded without complying with this Article except as further provided in this section.

**8.4.7 Additions:** Nonconforming wireless communication facilities may add additional antennas (belonging to the same provider or other providers) subject to approval of a separate special permit application.

**8.4.8 Repairs or Reconstruction:** Nonconforming wireless communications facilities which become damaged for any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the requirements of this Article. However, if the damage to the *wireless communication facility* exceeds 50% of the replacement cost, it may only be reconstructed or repaired in compliance with this Code.

**8.4.9 Unused Facility:** Any wireless communications facility not in use for six (6) months shall be deemed abandoned. All rights as a *nonconforming use* shall cease at this point.

**Section 8.5 Revocation of Special Use Permit:** Any Special Use Permit issued may be revoked after a hearing. The following include the reasons a permit may be revoked:

- 1) The Mayor and the City Council find that any permit holder has violated the requirements of this Article.
- 2) The permit holder or applicant has failed to make good faith reasonable efforts to provide or seek collocation.

Prior to initiation of the revocation proceedings, the City shall notify the permit holder, in writing, of the specific areas of non-compliance. A date by which the problems must be corrected will be provided. The provided time will not exceed sixty (60) days.

The permit holder shall provide the City with evidence that the required corrective action has been taken. Should the permit holder fail to correct any problem in the time provided, the Mayor and the City Council shall convene a public hearing to consider revocation of the Special Use Permit.

Notice of the hearing date will be published in a newspaper of general circulation at least 10 days before the hearing, and written notice will be provided to the permit holder. Interested persons may comment. The Mayor and City Council may impose reasonable restrictions with respect to time and procedure.

**Section 8.6 Penalty:** The fine or penalty for violating any provisions of this Article shall, upon conviction in the municipal court, be one thousand dollars (\$1,000.00) or less for any one specified offense or violation. A violation may be considered a separate offense for each day the violation continues.

**Section 8.7 Expiration of Approval:** Construction must begin within six (6) months of the authorization unless a special time limit of less than six (6) months has been imposed as a condition of approval.



## ARTICLE 9. AIRPORT PROTECTION

**Section 9.1 Authority and Scope:** This article is adopted under the authority of Arkansas Code Annotated §§ 74-301 et.seq.,and serves to protect the Clarksville Municipal Airport through the control of property.

### Section 9.2 General:

**9.2.1 Definitions:** The following definitions apply to airport protection:

- 1) *Airport:* Clarksville Municipal Airport.
- 2) *Airport Board Of Appeals:* A Board consisting of five members, appointed by the Airport Zoning Board, as provided in Arkansas Code Annotated § 74-301 et. seq.
- 3) *Airport Elevation:* 485.0 feet above mean sea level.
- 4) *Approach Surface:* A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 5 of this Article. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- 5) *Approach, Transitional, Horizontal, And Conical Zones:* These zones are set forth in Section 4 of this Article.
- 6) *Conical Surface:* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- 7) *Hazard To Air Navigation:* An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- 8) *Height:* For the purpose of determining the height limits in all zones set forth in this Article and shown on the airport zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- 9) *Horizontal Surface:* For the purpose of determining the height limits in all zones set forth in this Article and shown on the airport zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- 10) *Joint Airport Zoning Board:* A board consisting of members appointed by the City of Clarksville and Johnson County as authorized by Arkansas Statutes.
- 11) *Larger Than Utility Runway:* A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,5000 pounds maximum gross weight and jet powered aircraft.
- 12) *Non-Conforming Use:* Any pre-existing *structure*, object of natural growth, or use of land that is inconsistent with the provisions of this article or an amendment thereto.

13) *Non-Precision Instrument Runway*: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

14) *Obstruction*: Any *structure*, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 5 of this Article.

15) *Person*: An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

16) *Primary Surface*: A surface longitudinally centered on a runway. When the runway has a specially prepared *hard surface*, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 4 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

17) *Runway*: A defined area on an airport prepared for landing and take-off of aircraft along its length.

18) *Structure*: An object, including a mobile object, constructed or installed by man, including but without limitation, *buildings*, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

19) *Transitional Surfaces*: These surfaces extend outward at ninety degree (90) angles to the runway centerline and the runway centerline extended at a slope of seven feet (7') horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

20) *Tree*: Any object of natural growth.

21) *Visual Runway*: A runway intended solely for the operation of aircraft using visual approach procedures.

**9.2.2 Airport Zones:** The four zones listed below cover the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces of the area surrounding the Clarksville Municipal Airport. These zones are shown on the Clarksville Municipal Airport Zoning Map. This map is a part of these regulations and is kept on file by the city clerk in city hall. When a property is located in multiple zones, the requirements of the more stringent zone will apply.

1) Runway Larger than Utility with Visibility Minimums as low as 1-Mile Non-Precision Instrument Approach Zone: As shown on the airport zoning map, the inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone extends outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the runway.

2) Transition Zone: These are adjacent to each instrument and non-instrument runway and approach zone as shown on the airport zoning map.

3) Horizontal Zone: This zone is defined by swing arcs of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

4) Conical Zone: This zone is the area that commences at the edge of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

**9.2.3 Airport Zone Height Limitations:** Unless allowed in this Article, no tree shall be allowed to grow and no *structure* shall be built, altered, or maintained so that it exceeds the height limits within its zone. The height limits for each zone follow:

1) Runway Larger than Utility with Visibility Minimums as low as 1-Mile Non-Precision Instrument Approach Zone: Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

2) Transitional Zone: Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and approach surfaces, and extending to a height of one hundred fifty (150) feet above the airport elevation.

3) Horizontal Zone: Established at one hundred fifty (150) feet above the established airport elevation.

4) Conical Zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.

5) Exception: None of these height limits shall prevent tree growth or the construction or maintenance of a *structure* up to fifty (50) feet above the surface of the land.

**9.2.4 Use Restriction:** Unless allowed by this Article, land and water shall not be used in a way that creates electrical interference with navigational signals or radio communications between aircraft and the airport, makes it difficult for pilots to tell airport lights apart from other lights, results in glare in the eyes of pilots using the airport, impairs visibility near the airport, creates bird strike hazards, or creates danger or interferes with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

**9.2.5 Nonconforming Uses:** The following are *nonconforming uses* related to Airport Zone Height limitations:

1) Regulations Not Retroactive: These regulations shall not require the removal, lowering, or other change of any nonconforming *structure* or tree existing prior to the date this Article was adopted. The regulations shall also not prevent a *nonconforming use* from continuing.

2) Marking and Lighting: The owner of an existing nonconforming *structure* or tree shall be required to allow the installation, operation, and maintenance of markers and lights as deemed necessary by the Joint Airport Zoning Board. These markers and lights shall point out the presence of airport obstructions to operators of aircraft near the airport. These markers and lights shall be installed, operated, and maintained at the expense of the City of Clarksville.

**9.2.6 Permits:**

1) Future Uses: Except as specifically allowed in a, b, and c below, no physical change to land shall be made, no *structure* shall be built or constructed, and no tree shall be planted in any airport zone unless a permit has been obtained.

The permit application will list the proposed use or change to the land. It will provide adequate information to determine if the use, *structure*, or tree will conform to this Article. No permit for a use inconsistent with this Article shall be granted without approval a variance.

None of these exceptions are intended to permit the construction/alteration of any *structure* or the growth/planting of any tree taller than the height limits provided in this Article, except as specifically allowed in Section 9.3.2., item 5.

A. Within the horizontal zone and conical zone, no permit shall be required for any tree or *structure* less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, the tree or *structure* would extend above the height limits allowed for these zones.

B. Within the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or *structure* less than seventy-five (75) feet of vertical height above the ground, except when the tree or *structure* would extend above the height limit allowed in the approach zones.

C. Within the transition zones beyond the edge of the horizontal zone, no permit shall be required for any tree or *structure* less than seventy-five (75) feet of vertical height above the ground, except when the tree or *structure*, because of terrain, land contour, or topographic features, would extend above the height limit allowed in the transition zones.

2) Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction, or permit a *nonconforming use, structure, or tree* to become a greater hazard to air navigation, than it was when the original application for the use was made or than it was on the effective date of this Article.

3) Nonconforming Uses Abandoned or Destroyed: Whenever the Joint Airport Zoning Board determines that a nonconforming tree or *structure* has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed; no permit shall be granted that would allow the *structure* or tree to exceed the applicable height limit or deviate from this Article.

4) Variances: A variance shall be necessary to permit the following when it does not meet the standards and requirements of this Article:

- A. The construction or alteration of a *structure* or increasing the height of a *structure* to a height greater than allowed within its zone.
- B. Permit the growth of a tree taller than allowed within its zone.
- C. Start a use that would not be otherwise permitted.

Application for a variance must be made to the Airport Board of Appeals. The application for a variance shall include, from the Federal Aviation Administration, a determination of the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

Variances shall be allowed when it is found that word for word application or enforcement of the regulations will result in unnecessary hardship. However, it must also be found that the variance will serve the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article.

No application for variance may be considered by the Airport Board of Appeals unless a copy of the application has been provided to the Joint Airport Zoning Board for advice as to the aeronautical effects of the variance. If the Joint Airport Zoning Board does not respond to the application within thirty (30) days after receipt, the Airport Board of Appeals may act on its own to grant or deny the application.

5) Obstruction Marking and Lighting: The installation of adequate marking and lights on *structures* and trees may be required as a condition of approval for any permit or variance. The installation, operation, and maintenance shall be at the owner's expense. With approval of the Airport Board of Appeals, the installation, operation, and maintenance may be carried out at the expense of the City of Clarksville.

**Section 9.3 Enforcement:** The Joint Airport Zoning Board shall administer and enforce the Airport Zoning Regulations within this Article. All applications for permits and variances shall be made to the Joint Airport Zoning Board. The Joint Airport Zoning Board shall provide application forms. Applications submitted to the Joint Airport Zoning Board shall be promptly reviewed and granted or denied. Application made to Airport Board of Appeals shall also be provided to the Joint Airport Zoning Board.

#### **Section 9.4 Airport Board of Appeals:**

**9.4.1 Powers:** The Airport Board of Appeals will have the following powers:

- 1) Hear and decide appeals from any order, requirement, decision, or determination made by the Joint Airport Zoning Board enforcing this Article.
- 2) Hear and decide special exception to the terms of this Article that the Airport Board of Appeals may be required to pass.
- 3) Hear and decide variance applications.

**9.4.2 Members:** The Airport Board of Appeals shall have five members appointed by the Joint Airport Zoning Board. Each shall serve for a term of three (3) years until a replacement is appointed and qualified. Of the members first appointed, one (1) shall serve a one (1) year term, two shall serve a two (2) year term, two shall serve a three (3) year term. Members may be removed by the Joint Airport Zoning Board for cause. Written charges must be provided and public hearing held on the issue.

**9.4.3 Operations:** The Airport Board of Appeals shall adopt governing rules consistent with the regulations in this Article. The Airport Board of Appeals shall meet when requested by the Chairman or as determined by the Airport Board of Appeals. The Chairman or, in the absence of the Chairman, the Acting Chairman may administer oaths and require the attendance of witnesses. All hearings and meetings of the Airport Board of

Appeals shall be public. The Airport Board of Appeals shall keep minutes of its meetings. The minutes shall show the vote of each member for each application, record of all official actions, and all statements provided by applicants or the public. The minutes will be kept on file for public access by the City Clerk.

**9.4.4 Written Findings:** The Airport Board of Appeals shall provide a written finding of facts and conclusion of law giving the facts upon which it acted and its legal conclusions in reversing, affirming, or modifying any order, requirement, decision, or determination.

**9.4.5 Voting:** A majority vote by all members of the Airport Board of Appeals shall be necessary to approve a variance or reverse any order, requirement, decision, or determination made by the Joint Airport Zoning Board.

**9.4.6 Appeals:** The following regulate appeals made to the Airport Board of Appeals.

- 1) Any person aggrieved or taxpayer affected by a decision of the Joint Airport Zoning Board made enforcing this Article, may appeal to the Airport Board of Appeals.
- 2) To file an appeal, the applicant must provide written notice of appeal to the Joint Airport Zoning Board. The notice of appeal must specify the reason for the appeal. The Joint Airport Zoning Board will provide the appeal to the Airport Board of Appeals along with all records related to the appeal. All appeals must be heard within a reasonable time as provided by the rules of the Airport Board of Appeals.
- 3) An appeal shall stay all proceedings on the action appealed, unless the Joint Airport Zoning Board certifies to the Airport Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Joint Airport Zoning Board cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Airport Board of Appeals on notice to the Joint Airport Zoning Board and on due cause shown.
- 4) The Airport Board of Appeals shall set a date to hear the appeals, and give public notice of the meeting. Notice shall also be given to the applicant and parties in interest. The hearing may be attended by anyone and any party may be represented by an agent or attorney. All appeal decisions shall be made within a reasonable time.
- 5) The Airport Board of Appeals may, in conforming with the provisions of the Article, reverse or affirm in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.

**9.4.7 Judicial Review:** Any person aggrieved or taxpayer affected, by a decision of the Airport Board of Appeals, may appeal to the Circuit Court as provided in Arkansas Statutes.

**Section 9.5 Penalties:** Each violation of this Article, or of any regulation, order, or ruling provided shall be considered a misdemeanor and be punishable by, either or both, a fine of \$500 dollars or less or imprisonment for 180 days or less. Other remedies shall be allowed as by law. Each day a violation continues shall be considered a separate offense.

**Section 9.6 Conflicting Regulations:** Where a conflict exists between this Article and other regulations, the more strict regulations and limitation shall apply.

## ARTICLE 10. NONCONFORMING REGULATIONS

*Nonconforming Use: Any building or land lawfully occupied by a use at the time of passage of this Code which does not conform with the use or area regulations of the district within which it is located.*

**Section 10.1 Nonconforming Use Of Land:** A legally established land use that is prohibited by this Code and which existed prior to September 8, 2014, may continue, under the following conditions:

- 1) The *nonconforming use* shall not be made larger or increased, or occupy a greater land area than it did prior to September 8, 2014.
- 2) The *nonconforming use* may not be resumed if it ceases for more than six (6) months. After a use has ceased for six (6) months, all future use of the land shall conform to the requirements of this Code.
- 3) The *nonconforming use* shall remain otherwise legal.

**Section 10.2 Nonconforming Structures:** A *structure* that was legally permitted to be constructed prior to September 8, 2014, which would be prohibited by this Code because of restrictions on area, *lot* coverage, *building height*, *yard* requirements, or other characteristics of the *structures* or its location on the *lot*, may continue, under the following conditions:

- 1) The nonconforming *structure* shall not be rebuilt or repaired if it is considered destroyed unless it will be brought into conformance with this Code. A *structure* shall be considered destroyed if the cost of damage to the *structure* exceeds more than sixty (60) percent of its replacement cost at the time of destruction. Nonconforming structures destroyed by means of fire or natural disaster shall be allowed to be rebuilt within existing foot print of the structure.
- 2) The nonconforming *structure* may be added to if the addition meets the area requirements of the *lot's* zoning *district* and the *structure's* land use is conforming. An addition of this type shall require approval of the Board of Adjustment. If the addition does not increase the *structure's* nonconformity in any way or affect those portions of the *structure* causing the nonconformity, no approval from the Board of Adjustment shall be required.
- 3) The nonconforming *structure* may be remodeled, with approval of the Board of Adjustment, to maintain it in a safe and usable condition.
- 4) The nonconforming *structure* shall remain otherwise legal.

**Section 10.3 Nonconforming Use Of Structures:** A use of a *structure* or the use of a *structure* and premises that was legally established prior to September 8, 2014, which would be prohibited by this Code, may continue, under the following conditions:

- 1) A *structure* with a *nonconforming use* shall not be structurally altered unless the *structure's* use is changed to a conforming use.
- 2) A *nonconforming use* of a *structure* shall be allowed to expand or increase within the *structure*. The *structure* is required to have been designed or arranged for the *nonconforming use* prior to September 8, 2014, and the *nonconforming use* shall not be allowed outside of the *structure*.

3) A *nonconforming use* of a *structure* or *structure* and premises, may be changed to another *nonconforming use*. No *structural alterations* shall be permitted, and approval from the Board of Adjustment for the change of use is required. The Board of Adjustment shall not approve the change if the proposed use is of greater intensity than the existing *nonconforming use*.

4) A *nonconforming use* of *structure*, if changed to a conforming use, shall from then on be required to conform to the requirements of this Code. All future uses of the *structure* and premises shall be conforming uses.

5) A *nonconforming use* of a *structure* or *structure* and premises may not resume if considered abandoned. A *nonconforming use* of a *structure* or *structure* and premises shall be considered abandoned when it is discontinued for six (6) consecutive months. All future use of the *structure* and premises shall conform to requirements of this Code.

6) Should a *structure* containing a *nonconforming use* be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, the owner may request permission of the Board of Adjustment to reconstruct the *structure* and to continue the *nonconforming use*. The Board of Adjustment may grant or deny a request to reconstruct such a *structure*. In granting a request to reconstruct the *structure*, the Board may require conformance to *yard* requirements, *on-lot parking space*, adequate screening from adjacent uses and such other items deemed appropriate to the *district* in which located.

7) The *nonconforming use* of a *structure* shall remain otherwise legal.



## ARTICLE 11. BOARD OF ADJUSTMENT

**Section 11.1 Creation and Appointment:** This Article creates a Board of Adjustment. The membership of the Board of Adjustment shall consist of the membership of the Planning Commission. The term for a member of the Board of Adjustment shall be same as the member's term on the Planning Commission.

### Section 11.2 Organization:

**11.2.1 Officers:** Each year a Chairman and Vice Chairman shall be elected by the Board of Adjustment from its membership. The Chairman, or in his/her absence, the Vice Chairman, shall preside at all meetings, shall decide all points of order or procedure, and, as necessary, shall administer oath and require the attendance of witnesses.

**11.2.2 Rules and Regulations:** The Board of Adjustment shall adopt rules for the conduct of its business. Meetings shall be held on a regular schedule and at such other times as the Board may determine. All meetings shall be open to the public and notice of all meetings must be advertised seven (7) days in advance in a publication of general circulation within Clarksville. The Board of Adjustment shall keep minutes of its meetings. The minutes shall show the vote of each member upon each question as well as when a member is absent or fails to vote. It shall keep records of all its official actions. All its records shall be public record and be filed with the City Clerk. A quorum of the Board shall consist of a majority of its membership. When a quorum is present, the majority vote of the board members present shall be necessary to override a decision or action of the Administrative Official, or to decide any application or matter it is required to hear.

**Section 11.3 Powers and Duties:** The Board of Adjustment shall have the powers and duties prescribed by law and this Code. They are described in the following:

**11.3.1 Administrative Review:** The Board of Adjustment shall hear and decide appeals of decisions or interpretations made by the Administrative Official on enforcement of the Zoning Code. The Board of Adjustment may uphold, overturn, or partially overturn a decision or interpretation made by the Administrative Official.

**11.3.2 Variances:** The Board of Adjustment shall hear and decide variance applications. A variance from the terms of this Zoning Code shall not be approved by the Board of Adjustment unless and until:

- 1) The applicant demonstrates that the literal enforcement of the Zoning Code would cause undue hardship, and that the effect of the variance would not be contrary to the public interest.
- 2) The applicant demonstrates that special conditions and circumstances exist which are unique to the land, *structure* or *building* involved. These special conditions and circumstance must not be applicable to other lands, *structures* or *buildings* in the same *district*.
- 3) The applicant demonstrates that literal interpretation of the provisions of this Code would deprive them of rights commonly enjoyed by other properties in the same *district* under the terms of this Zoning Code
- 4) The applicant demonstrates that the special conditions and circumstances are not the result of actions by the applicant

5) The applicant demonstrates that granting the variance requested will not give the applicant any special privileges denied by this Zoning Code to other lands, *structures*, or *buildings* in the same *district*.

6) The Board of Adjustment makes a finding of fact that the reasons provided by the applicant justify granting the variance; that the variance is the minimum variance needed to make possible the reasonable use of the land, *building*, or *structure*; that the granting of the variance would not violate the spirit and intent of the Zoning Code; and that the effect of the variance will not cause injury to the surrounding neighborhood or damage the public welfare.

No variance may be approved that would allow a use that is not permitted or that is implicitly or expressly prohibited. The existence of a *nonconforming use* or *structure* shall not be used as grounds to justify approval of a variance. The Board of Adjustment may provide conditions on the approval of a variance. Violation of these conditions shall be considered a violation of this Zoning Code.

**11.3.3 Special Exceptions:** The Board of Adjustment shall have the authority to decide the following special exceptions after holding a public hearing:

- 1) Permit the extension of a zoning *district* boundary when a *lot* is divided between two zoning *districts*.
- 2) Interpret zoning *district* boundaries when the boundary of a zoning *district* is unclear.
- 3) Permit changes to *nonconforming uses* and *structures* as described in Article 10 of this Code.

#### **Section 11.4 Application Procedure:**

**11.4.1 Application:** The application for an Administrative Official Appeal, variance, or special exception shall follow these guidelines:

- 1) Administrative Official Appeals may be made by any person aggrieved by any decision of the Administrative Official. The Appeal shall be made in writing on forms provided by the Board, within 10 days after the Administrative Official's decision was made. The Appeal will be filed in the City Clerk's office. Fee for filing appeal shall be set by ordinance of the City Council, and is to be paid at the time of filing.
- 2) Applications for variances and special exceptions shall be filed on forms approved by the Board of Adjustment and available at City Hall. The application must be filed at the City Clerk's office at least 21 days before the next regular meeting of the Board of Adjustment. Required fees, as set by the City Council, are paid at the time of filing. If all documentation is in order, a public hearing will be set for the next regular meeting.

**11.4.2 Public Hearing and Notice:** The Board shall set the meeting time and date for the public hearing of an appeal or application. Public notice of the hearing shall be advertised seven (7) days in advance in a publication of general circulation within Clarksville. The public notice shall give the address and location of the property, as well as a brief description of the appeal or application. The public hearing shall be open to comment by anyone.

**Section 11.5 Appeals from Board of Adjustment:** All decisions of the Board of Adjustment may be appealed to a court of record, as provided by state law.

**Section 11.6 Effect of Appeal:** An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the Board, that, by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted or a court of record.

## ARTICLE 12. ADMINISTRATION AND ENFORCEMENT

**Section 12.1 Administrative Official:** The provisions of this Zoning Code shall be administered by the Administrative Official, which is designated by the Mayor. He/she may be provided with assistance, as directed by the Mayor. Decisions by the Administrative Official may be appealed to the Board of Adjustment. The Administrative Official is charged with the proper enforcement of this Code which includes, but is not limited to, the following activities:

**12.1.1 Permits:** The Administrative Official shall have the authority to issue or deny building permits and certificates of occupancy based upon compliance with this Code. Written notice stating the reasons for denial will be provided with any building permit or certificate of occupancy that is denied.

**12.1.2 Records:** The Administrative Official will keep records of all building permits and certificates of occupancy issued or denied, all violation complaints received, and record of actions taken on violation complaints.

**12.1.3 Inspections:** The Administrative Official shall have authority to inspect any *building* or land to determine whether any violations of these regulations have been committed or exist.

**12.1.4 Enforcement:** The Administrative Official shall have authority to enforce these regulations and take all necessary steps to remedy any condition found in violation. The City of Clarksville may instruct any individual or property owner who is in violation of this Code to prevent or correct such violation. Any individual aggrieved by a violation of this Code may request an injunction against any individual or property owner in violation of this Code or may request or require by court order any official to enforce the provisions of this Code.

**12.1.5 Advisements:** The Administrative Official shall, as needed, keep the Mayor, Planning Commission, and Board of Adjustment advised of all matters which relate to the administration and enforcement of these regulations.

**12.1.6 Questions:** The Administrative Official shall have the authority to bring to the Board of Adjustment questions regarding interpretation or enforcement of any provision of this Code which may be uncertain or unclear or any question they may have concerning any “gray area” the Zoning Code Book does not clearly define or address. They may also address said board or commission concerning any requirement in the zoning ordinance code book which should be waived for a particular situation or circumstance. This in no way precludes the right of any citizen to seek relief from a decision of the building official as provided for in Article 10.

**Section 12.2 Building Permit:** Site Preparation for Commercial or Industrial Construction may begin upon approval of the “Site Plan” by the Administrative Official and payment of the required fee, if required. However, it shall be unlawful to begin residential site preparation or any construction, reconstruction, or *structural alteration* of a *building* until the Administrative Official has issued a building permit for the work. No building permit shall be issued unless the proposed construction or use conforms to all the provisions of this Code and other applicable building laws, ordinances, or regulations. All applications for building permits shall be accompanied by a plan in duplicate drawn to scale. The plan shall include the size of the *building* to be erected, location on the *lot*, driveway, sidewalk, parking plan, and other information as may be required.

**12.2.1 Expiration:** Building permits shall expire within six (6) months if construction has not begun and within twelve (12) months if construction is not complete. The Administrative Official may approve an extension of the permit for up to an additional six (6) months to allow completion.

**Section 12.3 Demolition:** No *building* shall be moved or demolished without first obtaining a demolition permit from the Administrative Official and paying a fee as set by the City Council. Application for the permit will be reviewed by the Administrative Official. The permit for moving shall require that the *building* be in place and conform to the Arkansas State Fire Code, city building codes, and this Code within 120 days from the date of the permit.

The permit for demolition shall require that the *building* be completely removed and the site cleared of all debris within 120 days from the date of the permit.

**Section 12.4 Certificate of Occupancy:** No *building* built or structurally altered shall be supplied with electrical service or be used, occupied, or changed in use until a certificate of occupancy has been issued by the Administrative Official. It shall be the responsibility of the builder or contractor to obtain a certificate of occupancy prior to selling, renting or making the *building* available for occupancy. A certificate of occupancy may be revoked by the Administrative Official when it is found that the *building* or land does not conform to the use or condition, if any, in the certificate. Each day a use continues after revocation of the certificate shall constitute a separate offense and shall be punished as provided herein.

**Section 12.5 Penalty For Violation:** Any person or corporation who shall violate any of the provisions of this Zoning Code, fail to comply with any of the Code's requirements, or build or alter any *building* in violation of any detailed statement of plans submitted and approved shall be guilty of a misdemeanor and shall be liable to a fine of not more than one-hundred (100) dollars. Each day a violation exists constitutes a separate offence. The owner or owners of any portion of a *building* or premises where a violation exists or any architect, builder, contractor, agent, engineer, person, or corporation employed in connection with a violation shall be guilty of a misdemeanor and shall be liable to a fine of no more than one-hundred (100) dollars. This also applies to anyone which assisted in the commission of a violation.

**Section 12.6 Amendments:** Two types of amendments to this Zoning Code are recognized, one being a revision in the textual provisions of the Code and the other being a change of boundary in a zoning *district*.

**12.6.1 Amendment to Text:** The Planning Commission may desire to initiate an amendment, in which case, a public hearing shall be conducted by the Planning Commission on the proposed amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the City at least one time, at least 15 days prior to the hearing. Following the public hearing, the Planning Commission shall submit any recommendation for amendment to the City Council for adoption.

**12.6.2 Change in District Boundary:** The City Council or an owner of property may initiate a change in *district* boundary. If the owner of property desires to revise the boundary line of a zoning *district*, he or his legally designated agent shall submit to the Planning Commission a petition for such rezoning. The petition shall provide the legal description of the property proposed for revision in boundary, a description of the property as it is generally identified or known by the public (such as a *street* address; or in the case of a large tract, a description of its general boundaries), the zoning classification requested for the property, an explanation of the relationship of the proposed use to land uses surrounding the property, and any other optional information which the owner feels should be brought to the attention of the Planning Commission. The disposition of the petition shall be in accordance with the provisions of Section 6 and 7 below.

**12.6.3 Amendment and Abridgement:** After adoption and proper filing of plans, ordinances, and regulations, no amendment, extension, abridgement or recall of these may be made except in conformance with the procedure prescribed above, or by a majority vote of the City Council.

**12.6.4: Notice:** Before a proposed revision in the boundary of a *zoning district* may be recommended by the Planning Commission to the City Council, it must be the subject of a public hearing. Notice of the public hearing on the rezoning petition shall be published in a newspaper of general circulation in the City at least one time 15 days prior to the hearing. Additionally, the Building Official shall place a sign in a conspicuous place on the site of property proposed for rezoning indicating the date and place of the public hearing on the rezoning proposal, said sign to be placed on-site not fewer than 15 days prior to the date of the hearing.

**12.6.5 Hearing and Approval:** If all procedural requirements above are satisfied, the Planning Commission and the City Council shall proceed in the following manner:

- 1) The Planning Commission shall conduct the public hearing on the proposed amendment to the Code and/or Official Zoning Map.
- 2) Following the public hearing, the proposed amendment or change of *district* boundary may be approved as presented or in reduced scope by a majority vote of the entire Planning Commission, with recommendation for adoption by the City Council. Such modification shall not include a recommendation to a less restrictive zone.
- 3) If the Planning Commission disapproves a proposed amendment or rezoning petition, the reason for such disapproval shall be given in writing to the petitioner within 15 days from the date of the hearing.
- 4) 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 Clerk why he considers the Planning Commission's findings and decisions are in error. Such appeal to the City Council shall be filed with the City Clerk within 15 days after receipt in writing of the Planning Commission's denial. No such amendment will be considered by the City Council unless appealed in accordance with this section.
- 5) The City Council, by a majority vote, may, by ordinance, adopt a recommended amendment submitted by the Planning Commission or may return the proposed amendment to the Planning Commission for further study and recommendation.
- 6) If the City Council does not concur with the recommendation of the Planning Commission, either as first submitted or as submitted after re-study, or with regard to an appealed matter, the City Council may, by majority vote, amend this Code by granting the request for amendment in full or in modified form.
- 7) No application for a zoning amendment will be reconsidered by the Planning Commission for a period of 12 months of elapsed time from the date of final disapproval of the proposed amendment, unless the Planning Commission determines by 2/3 majority vote that a substantial reason exists for waiving this mandatory waiting period.

**Section 12.7 Fees:** Any party or parties proposing a change in the zoning regulations or *district* boundaries may make application and pay the appropriate fees at City Hall. Any party proposing the construction, reconstruction, moving, demolition or major *structural alteration* of any *building* or any other action described herein requiring a permit or fee must make application for such activity by completing the appropriate form at Clarksville Light and Water Operations, and must pay the required permit fee to Clarksville Light and Water.

## ARTICLE 13. DEFINITIONS

**Section 13.1 Interpretation:** For the purposes of interpreting these regulations, words used in the present tense shall include the future tenses; words in the singular number shall include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. The word "person" includes a firm, partnership, or corporation as well as an individual.

**Section 13.2 Other Definitions:** Specific sections of this Code may contain other definitions as appropriate.

**Section 13.3 Definitions:** For the purpose of interpreting these regulations, certain terms and words are to be used and interpreted as defined. Exclusive of headings and titles, any word in this code which is *italicized* is defined in this section.

*Accessory Buildings and Uses:* An accessory building is a subordinate *building* or a portion of the *main building*, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Code) located on the same *lot* as, the use of the *main building* or *principal use* of the land. An accessory use is one which is clearly incidental to, or customarily found in connection with, and on the same *lot* as, the main use of the premises. When "accessory" is used in the text, it shall have the same meaning as accessory use.

*Accessory Dwelling Unit:* A smaller, secondary site-built *dwelling unit* on the same *lot* as an existing *single-family dwelling*. The unit includes its own independent living facilities with provisions for sleeping, cooking, and sanitation, designed for residential occupancy independent of the primary *dwelling unit*.

*Amended: Ord. 2014-732*

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

*Alley:* A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

*Apartment:* A *multiple family dwelling* (see "Dwelling, Multiple-Family").

*Automobile Junk and Salvage Yard or Scrap Yard:* An area outside of a *building* where motor vehicles are disassembled, dismantled, junked, or "wrecked", or where motor vehicles not in operable condition or used parts of motor vehicles are stored, or where scrap metal, cloth, wood, paper, or other materials are stored for either resale, recycling, or retention.

*Bed and Breakfast:* An owner-occupied *dwelling unit* that contains no more than three guest rooms where lodging, with or without meals, is provided for compensation. The operator of the inn shall live on the premises or in adjacent premises.

*Building:* See *Structure*.

*Building Coverage:* The percentage of the *lot area* covered by the *building*. The *building* area shall include all overhanging roofs.

*Building Height:* The vertical distance measured from the average elevation of the finished grade at the front of the *building* to the highest point of the *structure*, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

*Building Line:* The line of that face of the *building* nearest the front line of the *lot*. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

*Building, Main or Principal:* A *building* in which is conducted or intended to be conducted, the main or *principal* use of the *lot* on which said *building* is located.

*Building Official:* The individual designated by the Clarksville City Council with the responsibility of administering the city building and development codes.

*Child Care Family-Home:* When children are cared for in a caregiver's own family residence or in some other suitable family type residence, and when one or more persons care for a minimum of six children but not more than sixteen children from more than one family at the same time. *Subject to all other applicable State regulations.*

*Child Care Center (Private):* A commercial child care center conducted under private for-profit, auspices providing direct care and protection for children.

*Child Care Center (Public or Non-Profit):* A child care center conducted by a church, school, or other non-profit organization and providing direct care and protection for children excepting that this definition does not apply to facilities meeting this definition but operating no more than three weeks at a time, specifically including Bible Schools or Day Camps.

*Clinic, Dental or Medical:* A facility for the examination and treatment of ill and afflicted human outpatients; provided, however, that patients are not kept overnight except under emergency conditions.

*Convenience Store:* Any retail establishment offering for sale prepackaged or prepared food products, household items, gasoline and other goods commonly associated with the same and having a *gross floor area* of less than 5,000 square feet.

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

*Drive-in Commercial Uses:* Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters, and similar uses.

*Dwelling:* Any *building*, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers, *Manufactured Homes*, or *travel trailers*.

*Dwelling, Attached:* A *dwelling* having any portion of one or more walls in common with adjoining *dwellings*.

*Dwelling, Detached:* A *dwelling* having *open space* on all sides.

*Dwelling, Single-Family:* A *dwelling* designed to be occupied by one family.



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

*Dwelling, Multiple-Family:* A *dwelling* designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, *hotels*, or *motels*.

*Dwelling, Townhouse or Row House:* Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

*Dwelling Unit:* A room or group of rooms within a *dwelling* and forming a single habitable unit with facilities for living, sleeping, and cooking.

*Façade:* The exterior walls of a *building* exposed to public view or that wall viewed by persons not within the *building*.

*Family:* One or more persons related by blood or marriage, including adopted children, or a group not to exceed 4 persons not all related by blood or marriage, occupying premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, *hotel*, club, or similar *dwelling* for some group use. A family may include domestic servants employed by said family.

*Federal Standards:* The Federal Manufactured Home Construction and Safety Standards promulgated by the United States Department of Housing and Urban Development under the authority of 42 U.S.C. 5401 et. seq., as it existed on January 1, 1976.

*Fence:* A man-made barrier constructed to provide privacy or visual separation between one ownership and another.

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

*Free-Standing Vending Machine:* A coin operated machine that dispenses merchandise intended as a stand-alone business to be accessed by automobile.

*Garage, Private:* An *accessory building* or a part of a *main building* used for storage purposes only for automobiles, used solely by the occupants and their guests of the *building* to which it is accessory.

*Garage, Public or Repair:* A *building* in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

*Gasoline or Service Station:* A *building*, *structure*, or land used primarily for the dispensing and sale of fuels, oils, accessories, or minor maintenance and repair services but not including painting, body work, major repairs, or automatic washing facilities.

*Hard Surface:* Concrete or asphalt surfacing installed to adequately support its intended Load or apparatus. Except that the minimum construction for parking is: four inches of 3000 psi concrete over stable sub grade or two inch asphalt over six inch compacted gravel

*Home Occupation:* Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the *dwelling* for *dwelling* purposes, which does not change the character thereof, and which is conducted entirely within the main *building*.

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

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

*Kennel:* Any *lot* or premises on which 4 or more dogs, more than six months of age are kept for personal use or boarding.

*In-Home Child Care Provider:* An individual selected by the family to provide child care to five or less children in the child(ren)'s home. *Subject to all other applicable State regulation.*

*Illumination, External:* Sign illumination which is generated from outside the sign's internal structure.

*Illumination, Internal:* Sign illumination which is generated from inside the sign's internal structure.

*Live/Work Unit:* A *building* used jointly for commercial and residential purposes where the residential use of the *building* is secondary or *accessory* to the primary use as a place of work.

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

*Lot, Area:* The total horizontal area included within the *lot*.

*Lot of Record:* A *lot* or parcel of land, the deed to which has been recorded in the office of the County Recorder of Johnson County prior to the adoption of this Code.

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

*Lot, Double Frontage:* A *lot* which is an interior *lot* extending from one *street* to another and abutting a *street* on two ends.

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

*Lot Line, Front:* In the case of an interior *lot*, the line separating said *lot* from that *street* which is designed as the front *street* in the request for a *building* permit.

*Lot Line, Rear:* The *lot* boundary opposite and most distant from the *front lot line*. In the case of a pointed or irregular *lot*, it shall be an imaginary line parallel to and farthest from the *front lot line*.

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

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

*Manufactured Home:* A dwelling unit constructed in a factory in accordance with the *Federal Standards* and meeting the definitions set forth in the *Federal Standards* and under Arkansas Code Annotated § 20-25-102.

*Manufactured Home Park:* Land or property containing a minimum of 2 acres which is used or intended to be used or rented for occupancy by *Manufactured Homes* or moveable sleeping quarters of any kind.

*Mobile Home:* A dwelling unit constructed in a factory before the enactment of the *Federal Standards*.

*Modular Home:* A residential structure, constructed in a factory and transported to the city in one or more sections and which meets the Clarksville Building Code.

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

*Nonconforming Use:* Any *building* or land lawfully occupied by a use at the time of passage of this Code which does not conform with the use or area regulations of the *district* within which it is located.

*Nursing Home:* Any premises where more than three persons are lodged and furnished with meals and nursing care.

*Open Space:* An unoccupied space open to the sky on the same *lot* with the *building* and occupied by no *structure* or portion of *structure* whatever.

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

*Parking Space:* An off-street space available for the parking of one motor vehicle and having an area of not less than 180 square feet exclusive of passageways and driveways, and having direct access to a *street* or *alley*. It shall measure not less than 9 x 20 feet.

*Principal Use:* The specific primary purpose for which land, *building* or *structure* is used or intended to be used.

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

*Registered Child Care Family Home:* when five or less children are cared for in the caregiver's own family residence or in some other suitable family type residence. *Subject to all other applicable State regulations*

*Relative Child Care Family Home:* when five or less children are cared for by a relative of the child(ren). *Subject to all other applicable State regulations.*

*Residential Drive:* That portion of the access component utilized as a vehicle entry point to a one or two family *structure*, existing upon the *street* right of way and in case less than 10 feet from the edge of existing *street* surface.

*Satellite Television Receiving Dishes, Ground Mounted:* A device commonly parabolic in shape, mounted at a fixed point on the ground for the purpose of capturing television signals transmitted via satellite

communications facilities and serving the same or similar function as the common television antenna. These devices are considered *accessory buildings*.

*Service Station*: See Gasoline Service Station.

*Setback*: Distance between the *lot line* and the *building line*.

*Sexually Oriented Business*: Means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult sex shop, adult theater, escort agency, lingerie model studio, nude model studio, or sexual encounter center.

*Sign*: Any outdoor device, figure, painting, message, poster, or other *structure* which is designed or intended to advertise or inform the public of an establishment, goods, or service.

*Sign, Abandoned*: A sign relating to or identifying an entity which has ceased operations or existence on the premises for at least six (6) months.

*Sign, Awning*: A sign which is a part of a fabric or other non-structural awning. Such signs are considered Wall Signs.

*Sign, Billboard*: An off-premise sign. See definition for off-premise sign.

*Sign, Electronic Message*: A sign which uses artificial light to display changing electronically programmed messages.

*Sign, Governmental or Public*: A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information and direct or regulate pedestrian, bike, or vehicular traffic.

*Sign, Ground-Mounted*: A freestanding sign that is supported by a solid base (other than poles) such that the bottom of the sign face is three (3) feet or less above grade, and no air space is visible within or between any portion of the sign display area and the signs supporting structure.

*Sign, Height*: The vertical distance from the highest point of the sign or *structure* to the grade of adjacent *street* or surface grade beneath the sign, whichever grade is lower.

*Sign, Illuminated*: A sign designed to give forth any artificial light or reflect light from an artificial source.

*Sign, Nonconforming*: Any sign which is not permitted under the terms of this ordinance, within the *district* in which it is located.

*Sign, Off-premise*: A sign, whether leased or owned by the advertising entity, which directs attention to an entity, activity, business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

*Sign, Permanent*: Signs anchored to the ground or building in a secure, permanent fashion as stipulated in applicable codes as adopted by the City of Clarksville.

*Sign, Projecting*: A sign which projects from and is supported by a wall of a *building*.

*Sign, Sandwich Board:* A sign set on the ground, without attachment to the ground, in an “A” frame configuration consisting of two sign panels hinged at the top.

*Sign, Surface Area:* The total surface area of a sign as determined in Section 7.2 of this Code.

*Sign, Temporary:* Any sign which is intended for temporary use and which is not permanently mounted to the ground or a building.

*Sign, Wall:* Any sign, other than a projecting sign or a temporary sign, which is permanently attached to or painted on any façade of any building.

*Story:* That portion of a *building*, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half *story* is a partial *story* under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of each *story*.

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

*Structure:* Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, *structures* include *buildings*, *fences*, billboards, and poster panels, but do not include walks and drives.

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

*Travel Trailer:* The *travel trailer* unit is a department temporary single-family *dwelling unit* built on a chassis not exceeding 8 feet wide and 32 feet long designed for short-term occupancy and frequent travel, requiring park services for utility and sanitary facilities. Unit may be self-propelled or towed behind a vehicle without a special permit required.

*Travel Trailer Park/ Recreational Vehicle Park:* A unified development under private ownership designed primarily for transient service, on which *travel trailers*, pick-up coaches, and self-propelled motorized vehicles are parked or situated for short-term occupancy. The owner shall provide park services for utility and sanitary facilities.

*Wireless Communication Facility:* A *wireless communication facility* is defined as any unstaffed facility covered by the Federal Telecommunications Act of 1996 for the transmission and/or reception of wireless telecommunication services, usually consisting of an *Antenna Array*, connection cables, an *Equipment Facility*, and a *Support Structure*, also known as an antennae or tower, to achieve the necessary elevation.

*Wireless Communication Antenna Array:* One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omni-directional antenna (rod), a directional antenna (panel) and a parabolic antenna (disc). The *Antenna Array* does not include the *Support Structure*.

*Wireless Communication Equipment Facility:* Any *structure* used to contain ancillary equipment for a WCF.

*Wireless Communication Support Structure:* A *structure* designed and constructed specifically to support an *Antenna Array*, and may include a monopole, guy-wire support tower, or derrick tower. Any device used to

fasten an Attached WCF to an existing *building* or *structure* shall be excluded from the definition of and regulations applicable to *Support Structures*.

*Yard*: An *open space* on the same *lot* with a *building* unobstructed from the ground upward and measured as the minimum horizontal distance between the *lot line* and the *main building*.

*Yard, Front*: A *yard* extending across the front of a *lot* between the *side yard* lines, and being the minimum horizontal distance between the *street* line and the *main building* or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches. On *corner lots* the *front yard* shall be considered as parallel to the *street* upon which the *lot* has its least dimension.

*Yard, Rear*: A *yard* extending across the rear of the *lot* between the *side lot lines* and measured between the *rear lot line* in the rear of the *main building* or any projection other than steps, unenclosed porches, or entrance ways.

*Yard, Side*: A *yard* between the *main building* and the side line of the *lot*, and extending from the *front lot line* to the *rear yard*, and being the minimum horizontal distance between a *side lot line* and the side of the *main building* or any projection thereof.

*Zoning Lot*: A parcel of land that is designated by its owner or authorized agent as a tract, all of which is to be used, developed, or built upon as a unit under a single ownership. A *zoning lot* may consist of any standard *lot* or a combination of *lot* and any legally recorded portion of a *lot* or a combination of *lot* and any legally recorded portion of a *lot* that existed prior to the passage of this Code. When determining the *front, rear, and side yard setbacks* for a *zoning lot*, the required distance shall be measured from the exterior boundaries of said *zoning lot*.

## **ARTICLE 14. VALIDITY AND REPEAL**

**Section 14.1 Validity:** This Zoning Code and the various parts, sections subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, sentence, or paragraph, section or subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Zoning Code shall not be affected thereby.

The City Council of the City of Clarksville hereby declares that all such remaining parts would have been passed irrespective of the validity or invalidity of any parts found to be invalid.

**Section 14.2 Repeal:** All ordinances or parts of ordinances in conflict with this Zoning Code, or inconsistent with provisions of this Code are hereby repealed to the extent necessary to give this Zoning Code full force and effect upon its adoption by Ordinance of the City Council of the City of Clarksville, Arkansas.