

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 150: GENERAL PROVISIONS**

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Fayetteville Code of Ordinances

CHAPTER 150: GENERAL PROVISIONS

150.01 Title

This title shall be known and may be cited as the Unified Development Code, Code of Fayetteville, and may be cited and abbreviated as "UDC."

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.02 Purpose

The UDC is adopted for the purpose of implementing the Comprehensive Land Use Plan and any other plans or policies adopted or amended by the City Council, in a manner that furthers the health, safety and general welfare of the people of the community and to provide uniform standards for the development of land and the installation of related improvements. The UDC sets forth the procedures, requirements, and minimum standards intended to promote an appropriate mix of land uses in an orderly manner; enhance aesthetic quality, moderate street congestion, secure safety from events such as fire, flood, erosion and landslides; prevent overcrowding of land; provide adequate light and air; and provide for circulation, recreation, and other public services and facilities. The UDC provides for, but is not limited to, development of land uses which protect established neighborhoods, and commercial and industrial districts; allows compatible infill of established areas; provides flexibility for mixing of uses to achieve traditional neighborhood developments; protects significant environmental resources; and makes a livable community.

(Code 1965, App. C, Art. 1, §A; Ord. No. 1750, 7-6-70; Code 1991, §158.02; Code 1965, §17B-14 Ord. No., 1893, 12-19-72; Code 1991, §160.001; Code 1965, App. A, Art. 13; Ord. No. 1747, 6-29-70; Code 1991, §150.02; Code 1965, §17B-14; Ord. No. 1893, 12-19-72; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4919, 9-05-06)

150.03 Authority

The provisions contained in the UDC are adopted pursuant to the authority conferred on the city by the General Assembly of the State of Arkansas, A.C.A. §14-54-103, General Powers of Cities and Towns; A.C.A. §14-54-104; Additional Powers of Cities of the First Class; and A.C.A. Title 14, Chapter 56, Municipal Building and Zoning Regulations--Planning; as amended.

(Code 1965, App. C, Art. I, §B; Ord. No. 1750, 7-6-70; Code 1991, §159.02; Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.04 Jurisdiction

The city's planning jurisdiction is the area within the corporate boundaries as well as the area described in the planning area boundary description as filed with the City Clerk and Washington County Circuit Clerk's office. Such planning area boundary description may be modified from time to time in accordance with A.C.A. §14-56-413.

(Code 1965, App. C, Art. 1, §C; Ord. No. 1750, 7-6-70; Code 1991, §159.03; Ord. No. 3895, §1, 6-20-95; Code 1991, §163.04(A); Ord. No. 4100, §2 (Ex. A), 6-16-98).

150.05 Relationship To Previous Development Ordinances

The UDC shall be considered a restatement of previously adopted development ordinances and not a new enactment unless otherwise specifically provided. Any situation which was considered nonconforming under the ordinances previously in force does not achieve lawful, conforming status under this chapter merely by the repeal of the previous ordinances to enact the UDC.

(Ord. No. 4100, §2 (Ex. A), 6-16-98).

150.06 Relationship To Other Provisions Of The Code Of Fayetteville

The use of buildings and land shall be subject to all other applicable provisions of the *Code of Fayetteville* regardless of cross references within the UDC. Cross references to other provisions of the *Code of Fayetteville* are for the convenience of the reader. Lack of a cross reference shall not be construed as an indication that other provisions of the *Code of Fayetteville* do not apply.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.07 Conflicts

- (A) *UDC/other code requirements.* The provisions of the UDC shall be held to be minimum requirements. Where requirements of the UDC are at a variance with other requirements within the *Code of Fayetteville*, the highest or most restrictive requirements shall apply.
- (B) *UDC/UDC.* Where a conflict arises between one section of the UDC and another section of the UDC, the most stringent section shall apply.
- (C) *UDC/Comprehensive Land Use Plan.* The regulations contained herein are adopted giving due consideration to the Comprehensive Land Use Plan. Thus, the requirements of the UDC shall take precedence over the policies of the Comprehensive Land Use Plan. Any conflict therewith should not be considered basis for challenge.
- (D) *UDC/private agreements.* The UDC is not intended to abrogate any private agreements, deed restrictions, covenants, easements, or other private agreements on the use of land. Where the UDC is more restrictive or imposes higher standards than the private agreement, the UDC shall control. Where the provisions of a private

agreement are more restrictive or impose higher standards than the UDC, the provisions of the UDC shall be implemented and enforced by the city and the private restrictions shall be implemented and enforced under the terms of the private agreement. Private agreements shall not be enforced by the city.

- (E) *A.C.A. amendments.* Whenever any provision of the UDC refers to or cites a section of the *Arkansas Code Annotated (A.C.A.)* which is later amended or superseded, the UDC shall be deemed amended or superseded in accordance therewith.

(Code 1965, §17B-14; App. A, Art. 13; App. B, §XII; Ord. No. 1747, 6-29-70; Ord. No. 1893, 12-19-72; Ord. No. 2697, 1-20-81; Code 1991, §§150.11, 158.02, 150.001, 162.12; Ord. No. 3699, §13, 4-20-93; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4919, 9-05-06)

150.08 Rules Of Construction

In the construction of the UDC, the following rules shall be observed, unless the context clearly indicates otherwise.

- (A) *City.* The words “the city” or “this city” shall be construed as if the words “of Fayetteville” followed it and include its several officers, agents, and employees.
- (B) *City Council.* Whenever the words “City Council” are used, they shall be construed to mean “City Council of Fayetteville.”
- (C) *Computation of time.* Whenever a notice is required to be given or an act to be done, or in computing a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day of which such proceeding is to be had shall be counted.
- (D) *County.* The words “the county” or “this county” shall mean the “County of Washington.”
- (E) *Gender.* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.
- (F) *Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- (G) *Oath.* The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” or “affirmed.”

- (H) *Or/and.* “Or” may be read “and,” and “and” may be read “or” if the sense requires it.
- (I) *Owner.* The “owner,” applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.
- (J) *State.* The words “the state” shall be construed to mean the “State of Arkansas.”
- (K) *Time.* Words used in the present or past tense include the future as well as the present and past.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.09 Headings/Catchlines Of Sections

Headings and/or catchlines of the several sections of the UDC are intended as mere catchwords to indicate the contents of the section and are provided for the convenience of the reader. Headings and/or catchlines shall not be deemed or taken to the titles of such sections, nor as any part of the section, nor, unless expressly so proved, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

150.10 No Warranty Implied

Nothing contained herein shall be construed or interpreted to constitute a warranty by the city of the compliance of any person or persons with the provisions of the UDC. No word, phrase, or paragraph contained herein shall be interpreted or construed to waive that tort immunity as set forth under Arkansas law.

(Code 1991, §163.11; Ord. No., 3895, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98)

State law reference(s)--Tort liability--Immunity declared, A.C.A. §21-9-301.

150.11 Compliance

Any permit, certificate, etc., which is issued in compliance with the regulations set forth in this UDC, is issued only for the stated purpose. No other use, arrangement, construction, etc. is authorized. Any use at variance therewith shall be deemed a violation of this UDC.

(Code 1965, App. A, Art. II; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Code 1991, §§159.10, 160.194; Ord. No., 4100, §2 (Ex. A), 6-16-98)

150.12 Penalty

Unless specifically provided otherwise in the particular chapter or code section, §10.99 General Penalty of the Code of Fayetteville shall apply to all portions of the Unified Development Code just as it does throughout all the Code of Fayetteville.

(Ord. 5120, 3-18-08)

Cross reference(s)--Enforcement, §153.10; General Penalty, §10.99.

150.13 Severability

If any section, paragraph, clause or part of the UDC is for any reason invalid, such decision shall not affect the validity of the remaining provisions of the UDC; and the application of those provisions to any person or circumstances shall not be affected thereby.

(Code 1991, §159.69; Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.14-150.99 Reserved

State law reference(s)--General powers of cities and towns, A.C.A. §14-54-103; Additional powers of cities of the first class, A.C.A. §14-54-104; Municipal Building and Zoning Regulations--Planning, as amended, Arkansas Code Annotated, Title 14, Chapter 56, Territorial jurisdiction, A.C.A. §14-56-413.

