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164.01 Accessory Commercial Uses

Permitted accessory uses in RMF and R-O Districts shall include accessory commercial uses of the types included in Unit 12 provided that:

- (A) *Convenience.* Such uses are located entirely within a multi-family dwelling or office building as an accessory use for the convenience of the occupants of said building.
- (B) *Gross floor area.* Do not occupy more than 10% of the gross floor area of the building in which located.
- (C) *Signs.* Have no signs or other advertising visible from outside the zoning lot on which located.
- (D) *Location.* Are located in or contiguous to the lobby of the principal building.
- (E) *Lobby entrance.* Have at least one lobby entrance.

(Code 1965, App. A., Art. 7 (2); Ord. No. 1747, 6-29-70; Code 1991, §160.077; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.02 Accessory Structures And Uses

Accessory Structures And Uses. Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 160 through 165, and to the following general conditions:

- (A) *Accessory structures.*
 - (1) *When erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, UNLESS such accessory structure shall have been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.
 - (2) *Integral part of principal structure.* An accessory structure erected as an integral part of the principal structure shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of the building code applicable to the principal structure.
 - (3) *Height and Setback Restrictions.* Accessory structures ten (10) feet or less in height shall maintain a minimum side setback of three (3) feet and a minimum rear setback of five (5) feet from the property lines. Accessory structures greater than ten (10) feet in height shall meet the setback requirements of the

zoning district in which it is located. All accessory structures shall conform to the front setbacks of the zoning district in which it is located.

- (4) *Size of accessory structure(s).* An accessory structure(s) shall be 50% or less of the size of the principal structure. Any accessory structure(s) requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties. Accessory structures that exceed 50% of the size of the principal structure shall meet the setback requirements of the zoning district in which it is located.

- (B) *Swimming pools.* Swimming pools shall not be located in any required front setback.

(Code 1965, App. A., Art. 7 (1); Ord. No. 1747, 6-29-70; Ord. No. 2177, 12-16-75; Ord. No. 3131, 10-1-85; Code 1991, §160.076; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4817, 1-3-06; Ord. 5239, 5-5-09)

164.03 Accessory Residential Uses In Nonresidential Districts

- (A) *Attached residential use.* Attached residential uses shall be permitted in the C-1, C-2, I-1 and I-2 zoning districts as a use by right. Density limitations for attached residential uses in such zoning districts shall be governed by a density of 24 dwelling units per acre.
- (B) *Detached residential dwelling.* A detached residential dwelling unit may be permitted in the C-1, C-2, I-1 and I-2 zoning districts as a conditional use. Density limitations shall be governed by a density of 24 dwelling units per acre. The building site and setback area must be separate and distinct from off-street parking spaces and setback areas required for the principal structure and shall include a minimum of 4,200 square feet of land area. The residential structure shall be located to meet required setbacks from exterior boundaries of the total tract. The property owner shall execute and record covenant provided that the residential structure shall not be sold separately from the principal structure; the covenant shall run with the land.

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(Code 1965, App. A., Art. 7(24); Ord. No. 1747, 6-29-70; Ord. No. 3132, 10-1-85; Code 1991, §160.094; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

Cross reference(s)--Parking and Loading, Ch. 172.

164.04 Animals And Fowl

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:
 - (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
 - (2) No more than four (4) hens shall be allowed for each single-family dwelling.
 - (3) No roosters shall be allowed.
 - (4) There shall be no outside slaughtering of hens.
 - (5) All hens must be kept in a secure, fenced enclosure constructed with a minimum area of 100 square feet. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.
 - (6) A chicken coop/roost area shall not be located closer than twenty-five (25) feet to any residential structure on an adjacent lot, and shall meet building setbacks.
 - (7) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.

- (8) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.
- (9) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.
- (10) All regulations administered by the Animal Services Division shall be enforceable by law, and this ordinance shall not supersede or replace any regulation thereof.
- (D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural, or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right.
- (E) *Separation of use.* The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

25 FEET
Chicken Coop in Residential districts (from residential dwelling on adjacent lot)

50 FEET
Animal hospital; serving household pets and similar small animals
Commercial breeding, raising
Boarding: breeding, raising, or boarding of household pets or similar small animals for commercial purposes
Kennel
Egg farm

100 FEET
Animal hospital: serving livestock and similar animals
Boarding or training of horses
Dairy farm
Poultry farm
Farm: for raising cattle, goats, horses, sheep, rabbits and poultry

200 FEET
Hog raising
Livestock: assembly, breeding, feeding, sales or shipment

(Code 1965, App. A., Art. 7 (3); Ord. No. 1747, 6-29-70; Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98)

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(Code 1965, App. A., Art. 7 (3); Ord. No. 1747, 6-29-70; Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98; Ord. 5198, 12-2-08)

164.05 Automobile Garages

In any district where permitted, automobile garages shall be subject to the regulations set forth for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R district.

(Code 1991, §160.079; Code 1965, App. A, Art. 7(4); Ord. No. 1747, 6-29-70; Ord. 5271, 9-1-09)

164.06 Automobile Wash Service

Automobile wash service shall be subject to the provisions set forth in § 163.14 drive-in facilities. The following provisions shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.

(Code 1991, §160.080; Code 1965, App. A, Art. 7(5); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77)

164.07 Erection Of More Than One Principal Structure On A Lot Of Record

In any district, more than one structure housing a permitted principal use may be erected on a single lot, provided that setback and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Code 1965, App. A., Art. 8(4); Ord. No. 1747, 6-29-70; Code 1991, §160.112; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.08 Extraction

(A) *Rezoning.* Extractive uses are generally incompatible with other land uses and cannot be permitted as a use by right in any district. Such uses are to be considered by rezoning request. In an extraction district no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

- (1) Extractive uses as described in Use Unit 30;
- (2) City-wide uses by right as described in Use Unit 1;
- (3) Park, playground, or preserve operated on a noncommercial basis;
- (4) Accessory uses and buildings.

(B) *Exception.* Extractions which occur in association with development activities and not for the primary purpose of exporting earth products (any material of commercial value found

in the earth) shall be subject to Chapter 169, Physical Alteration of Land without requirement for extraction district rezoning.

(C) *Operational requirements.* Operations at the site shall not create unusual traffic hazards or the need for special public improvements, nor the need for special protection, repair, or maintenance of adjacent property. Blasting operations shall be limited to Mondays through Fridays, between 8:00 a.m. and 5:00 p.m. Creation of undrained pockets and stagnant pools shall be avoided to the maximum extent. The operation of machinery (other than extraction equipment) such as sorters, crushers, or other processing devices shall not be permitted within 500 feet of any lot lines. While excavation is in progress, effective steps shall be taken to control erosion of disturbed areas. Such measures may include seeding, mulching, screening, stabilizing, or other cover as appropriate.

(D) *Fencing and screening.* Where deemed necessary by the Planning Commission, approved safety fences shall be provided. In addition, where deemed necessary to protect abutting property from diminution of land value or use, the Planning Commission may require approved fencing and/or screening of at least 75% opaqueness.

(E) *Rezoning application.* The application shall include the following:

(1) *Arkansas Open Cut Land Reclamation Act.* A letter from the State Department of Pollution Control and Ecology stating whether the proposed operation is subject to or not subject to the Arkansas Open Cut Land Reclamation Act.

(2) *Development plan.* The plan for development shall show the proposed development as planned and staged in relation to surrounding property and shall include topographic surveys indicating present conditions (including drainage) and the conditions (including topography), drainage and soils to be left at the end of the extraction phase. Contour intervals shall be five feet. The plan for development shall demonstrate the feasibility of the operation proposed without hazard or damage to other properties because of increased flooding or runoff, undesirable rise or reduction in ground water levels, erosion, or undermining or settlement in adjoining areas. This plan shall also show important locational aspects of the stages of exploitation, where and how traffic will be handled, where equipment will be operating, the location and dimension of

structures, safety safeguards, depth of excavation and hydrogeology in the area.

- (3) *Plan for reuse.* A site plan of the restored property showing its proposed future use shall be submitted. Such proposed reuse shall be compatible with surrounding property. Where conditions are suitable, permanent lakes may be permitted, but intermittent lakes and marshes shall not be allowed. Excavation shall be phased so that no more than 10 acres shall be in use or unrestored at any time. Restoration standards shall conform to §161.23 of this Code and shall result in conditions appropriate for the planned reuse of the site.

State law reference(s)--"The Arkansas Open-Cut Land Reclamation Act," A.C.A. §15-57-301 et seq.

(Code 1991, §160.135; Code 1965, App.A, Art 4(1); Ord. No. 1747, 6-29-70; Ord. No. 1918, 5-15-83; Ord. No. 2126, 7-14-75)

164.09 Fences, Walls, And Vegetation

Subject to the provisions of §166.12, fences, walls, and vegetation may be permitted in any required setback or any required setback area, or along the edge of any setback, provided the fence, wall, or vegetation does not materially impede vision, as determined by the Zoning and Development Administrator, between vehicular or pedestrian traffic. In any required setback or any required setback area, nothing permanent over 2½ feet (30 inches) high may be installed which materially impedes vision between vehicular or pedestrian traffic.

(Code 1965, App. A., Art. 8(2); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.111; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

164.10 Garage Sales

Garage sales are permitted in any zoning district subject to the following conditions:

- (A) *Frequency.* Garage sales shall not locate in one (1) location more than four (4) times per year.
- (B) *Term.* Garage sales may be held for a duration not to exceed three (3) consecutive days.
- (C) *Signs.* One on-site and three off-site temporary signs are allowed to be posted, however, posting may not occur more than two (2) days before the sale begins. Signs are not to be located on public rights-of-way. Each sign shall not exceed 4.5 square feet in area. The off-site signs shall include address and date(s) of sale. All signs shall be removed by 8:00 a.m. on the day following the sale. Any such signs not so removed the following day, or located in public rights-of-way may be removed by city staff and

for any such sign removed a collection fee shall be imposed.

(Code 1991, §160.103; Ord. No. 3970, § 3, 5-7-96; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross-reference(s)--Signs, Ch. 174.

164.11 Height or Setback Regulations; Exceptions

- (A) The height limitations contained in the Zoning Regulation, Chapter 161, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (B) *Side Setbacks.* Zero lot line and common wall development. Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses; but townhouses shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

(Code 1965, App. A., Art. 8(6); Ord. No 1747, 6-29-70; Ord. No. 2555, 8-21-79; Code 1991, §160.113; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5225, 3-3-09)

164.12 Nonconforming Uses And Structures

- (A) *Intent.*
- (1) Within the districts established by this chapter or amendments that may later be adopted, if there exist lots, structure, uses of land and structures, and characteristics of use which are lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (2) It is not the intent of this section to prohibit the improvement of nonconforming residences by adding bath facilities or connecting to utilities as long as the bulk and area requirements of the RMF-40 District are met.

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- (3) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district involved.
- (4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (B) *Nonconforming lots of record.*
- (1) *Single-family dwellings.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that setback dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. In a previously developed subdivision, platted prior to June 29, 1970, and with the approval of the Subdivision Committee, a new single-family dwelling, or an addition, or repair to an existing single-family dwelling may be constructed in all residential zones in keeping with the existing standard in the neighborhood so long as the interior side setback is no less than five (5) feet. Variance of setback requirements shall be obtained only through action of the Board of Adjustment.
- (2) *Combined lots.* If two or more, or combination of lots and portion of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements stated in this chapter. The prohibition prescribed hereby shall not apply to a nonconforming lot on which a principal structure existed on the effective date of adoption of this chapter and which adjoins a nonconforming lot on which a principal structure existed on the effective date of the adoption of this chapter.
- (C) *Nonconforming uses of land (or land with minor structures only).* Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:
- (1) *Enlargement.* No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- (2) *Moving of use.* No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.
- (3) *Cease of use.* If any such nonconforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations in which such land is located; and
- (4) *Additional structures.* No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.
- (D) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on areas, lot coverage, height, setbacks, its location in the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) *Alterations.* No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity, provided, the following structures may be enlarged or altered as hereinafter provided:
- (a) Nonconforming residential structures may be enlarged or altered by increasing the height of said structures.

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- (b) Carports in residential zones may be extended into the required setback setbacks if:
- (i) The carport is setback at least 10 feet from the street right-of-way;
 - (ii) The carport is setback at least five feet from any interior side property line;
 - (iii) The carport is setback at least 10 feet from the rear property line;
 - (iv) The area below the roof is open on the sides; and
 - (v) The carport does not materially obstruct vision.
- (c) In residential zones, detachable awnings which are not structurally a part of the building may be erected in any required front setback or rear setback if the awning does not project more than six feet. Detachable awnings which are not structurally a part of the building and which project no more than four feet may be erected in any required interior side setback.
- (d) In residential zones, porch roofs and open porches may extend into required setbacks by one foot on each side of the entry door to maximum depth of six feet in required front setbacks and rear setbacks and to a maximum depth of four feet in required interior side setbacks.
- (2) *Destruction.* Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) *Moving.* Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (E) *Nonconforming uses of structures or of structures and premises in combination.* If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions.
- (1) *Enlargement of structure.* No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located or as required by other ordinances.
 - (2) *Extending use.* Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such buildings.
 - (3) *Change of use.* If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provide that the Planning Commission either by general rule or by making finding in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change the Planning Commission may require appropriate conditions and safeguards in accord with the provision of this chapter.
 - (4) *Superseded by permitted use.* Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
 - (5) *Abandonment of use.* When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months, or for 18 months during any three year period (except where government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
 - (6) *Destruction.* Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the

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purpose of this division is defined as damage to an extent of more than 50% (or other figure) of the replacement cost of time of destruction.

(7) *Outdoor advertising signs.* All outdoor advertising signs (billboards) not conforming with the provisions of this chapter shall be removed within the period prescribed by §174.06.

(F) *Repairs and maintenance.*

(1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure, or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

(2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe, or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt, except in conformity with the regulations of the district in which it is located, or as required by other ordinances.

(G) *Conditional use provisions not nonconforming uses.* Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

(H) *Owner-occupied nonconforming residences.* Notwithstanding any other provision in this subchapter, any owner-occupied nonconforming residence may be enlarged, extended, constructed, reconstructed, or structurally altered to permit expansion up to 25% of the square footage of the structure as it existed on the date it became nonconforming, and customary accessory structures may be located on property where an owner-occupied nonconforming residence is located subject to the following conditions: A owner-occupied nonconforming residence so expanded or any accessory structure so located may be enlarged, extended, constructed, reconstructed, structurally altered, or

located in conformity with the bulk and area regulations, setback requirements, and building area requirements in the RSF-4.

(I) *Designated Preservation Structures.* Significant structures as designated by City Council resolution as worthy of preservation shall be exempted from the provisions of this section.

(Code 1965, App. A., Art. 4(1), (2), (4)--(7); 5(8); Ord. No. 1747, 6-29-70; Ord. No. 1806, 7-16-71; Ord. No. 1891, 12-5-72; Ord. No. 2126, 7-14-75; Ord. No. 2505, 2-20-79; Ord. No. 1918, 5-15-83; Ord. No. 3114, 9-3-85; Ord. No. 3124, 9-17-85; Ord. No. 3130, 10-1-84; Code 1991, §§160.135--160.142; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4930, 10-03-06)

164.13 Non Residential Uses In R Districts

The following requirements apply to charitable, cultural, educational, recreational, health, institutional, religious, social, and similar nonresidential facilities where permitted in or abutting an R District. The Planning Commission may reduce these requirements after receiving and reviewing a development plan under the provisions of §166. Separation of structures of areas for uses listed above shall be as follows:

Type of Structures or Element of the Facility	Minimum Separation (ft.)
Outdoor Facility or Use:	
Eating or picnic area	100 ft.
Entrance driveway	20 ft.
Outdoor activity area	75 ft.
Outdoor lighted area	200 ft.
Outdoor spectator facilities	50 ft.
Outdoor sports area without spectator facilities	100 ft.
Tool or equipment storage	200 ft.
Indoor Facilities:	
Air conditioning tower or dispenser unit	50 ft.
Auditorium, ballroom, dining room, or meeting room having a floor area of more than 1, 200 square feet, game court, game room, gymnasium, locker or shower room, place where alcoholic beverages are served, spectator facilities, swimming pool, theater, or similar indoor facility:	
If fully air-conditioned	100 ft.
If not fully air-conditioned	200 ft.
Building of a general hospital or convalescent home	50 ft.
Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients	200 ft.
All Other Facilities:	
If fully air-conditioned	50 ft.
If not fully air-conditioned	100 ft.

(Code 1965, App. A., Art. 7 (14); Ord. No. 1747, 6-29-70; Code 1991, §160.088; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5296, 12-15-09)

164.14 Parking And Storage Of Certain Vehicles

Automotive vehicles or trailers of any kind, or type without current license plates shall not be parked, or stored in any zones, except those allowing auto sales or salvage unless completely enclosed in buildings or carports connected to the principal structure. Disabled vehicles must be stored inside buildings except in zones allowing auto salvage.

(Code 1965, App. A., Art. 8(7); Ord. No. 1747, 6-29-70; Code 1991, §160.115; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)--General Provisions, Ch. 150; Administration, Ch. 152; Enforcement, Ch. 153; Appeals, Ch. 155; Notification and Public Hearings, Ch. 157; Streets and Sidewalks, Ch. 171.

164.15 Prefabricated Construction

(A) *Residential unit.* Prefabricated residential units shall be considered as a single-family or multi-family residential unit, whichever is appropriate, and shall meet the requirements of the governing district.

(B) *Additional requirements.* In addition it shall be necessary for all units to meet the following requirements:

- (1) The building codes of the city;
- (2) Be secured to a permanent masonry or concrete foundation;
- (3) Have permanent water and sewer connections;
- (4) Have a minimum roof pitch of four to twelve (4:12);
- (5) Nongable roof ends shall have a minimum overhang of twelve (12) inches; and
- (6) Have a minimum building width of twenty feet (20').

(Code 1965, App. A., Art. 7 (13); Ord. No. 1747, 6-29-70; Code 1991, §160.087; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.16 Structures To Have Access

Every building hereafter erected or moved shall be located on a lot which has frontage on a public street; provided, the Planning Commission shall have the authority to waive this requirement where the property owner provides safe and convenient access for fire protection and sanitation vehicles. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Code 1965, App. A., Art. 8(6); Ord. No. 1747, 6-29-70; Ord. No. 2555, 8-21-79; Code 1991, §160.114; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.17 Visibility At Intersections In Residential/Nonresidential Districts

(A) *Residential.* On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 and ½ feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines 25 feet from the point of the intersection.

(B) *Nonresidential.* On a corner lot in any nonresidential district, nothing shall be erected, placed, planted, or allowed to grow, and no motor vehicle or mobile home shall be parked in a manner as to materially impede vision between a height of 2 and ½ feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines 10 feet from the point of the intersection; provided, this restriction shall not be applicable to a corner lot located in a DC, MSC or DG zoning district.

(Code 1965, App. A., Art. 8(1, 1.1); Ord. No. 1747, 6-29-70; Ord. No. 2193, 2-3-76; Code 1991, §160.110; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5028, 6-19-07)

164.18 Supplementary Use Regulations

(A) *Automobile garages.* In any district where permitted, automobile garages shall be subject to the regulations set forth in §164.16(C) for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R District.

(Code 1965, App. A., Art. 7 (4); Ord. No. 1747, 6-29-70; Code 1991, §160.079; Ord. No. 4100, § 2 (Ex. A), 6-16-98)

(B) *Automobile wash service.* Automobile wash service shall be subject to the provision set forth in §164.16(C), drive-in facilities. The following provision shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.

(Code 1965, App. A., Art. 7 (5); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.080; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(C) *Drive-in facilities.* Drive-in facilities, including but not limited to, banks, restaurants, theaters, gasoline stations, garages, automobile washes,

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and parking lots shall be subject to the following condition:

- (1) No vehicular entrance or exit shall be established within 200 feet of any existing school, playground, park, church, hospital, library, nursery school, or day care center, except where such facility or institution is in another block or on another street which the lot in question does not abut.

(Code 1965, App. A., Art. 7 (8); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.083; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(D) *Gasoline service stations.* A gasoline service station shall be subject to the following requirements:

- (1) *Bulk and area.* Gasoline service stations shall be regulated by the bulk and area requirements of the district in which it is located and the following:

Minimum setback of pump island, compressed air connection and similar equipment from all right-of-way lines	25 ft.
Minimum setback of canopy covering pump island, compressed air connection and similar equipment from all right-of-way lines. (**Canopies shall not be considered a part of the building for determining building setbacks even if said canopies are attached to the principal structure.)	20 ft.

- (2) *Signs.* Any permitted sign shall be stationary and shall conform in all respects to the applicable regulations pertaining to signs.

- (3) *Auto washing.* Washing of autos shall be entirely within an enclosed structure.

(Code 1965, App., A., Art. 7 (9); Ord. No. 1747, 6-29-70; Ord. No. 1870; 6-19-72; Ord. No. 2126, 7-15-75; Code 1991, §160.084; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

(E) *Industrial parks.* Sites for industrial parks shall be developed according to the following requirements:

- (1) *Landscaping.* The first 10 feet of depth of required front setbacks and of required rear setbacks facing a street and the first 20 feet of width of a required exterior setback shall be permanently maintained in suitable landscaping, a plat of the design of which shall be filed with the Zoning and Development Administrator prior to the issuance of building permit.

- (2) *Grading and drainage.* All open portions of any lot shall have adequate grading and drainage, and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, or planted ground cover, or by paving with asphaltic concrete, rock, Portland cement, concrete, or other resilient materials.

(Code 1965, App. A., Art. 7(15); Ord. No. 1747, 6-29-70; Ord. No. 380, 9-1-20-77; Code 1991, §160.089, Ord. No. 4100, §2 (Ex. A), 6-16-98)

(F) *Retail liquor stores.* Retail liquor stores may be located in those zoning districts where such use is permitted, subject to the following conditions:

- (1) *Church/school/hospital.* No retail liquor store shall be located within 600 feet (200 yards) of any church, hospital, or school house. For the purpose of this section, "schoolhouse" shall include classroom and dormitory buildings of the University of Arkansas.

- (2) *Residential zone.* No retail liquor store shall be located on any property two or more sides of which abut or are across the street from and perpendicular to property zoned residential. For the purpose of this section the term "street" shall not include any federal highway.

(Code 1965, App. A., Art. 7 (22); Ord. No. 1747, 6-29-70; Ord. No. 2122, 7-15-75; Ord. No. 2380, 9-21-77; Code 1991, §160.092; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(G) *Riding stables.* In any district where permitted, riding stables shall be subject to the following conditions.

- (1) *Minimum area.* Riding stables shall not be located on any property which does not contain a minimum of 40 acres of undeveloped land.

- (2) *Setback from residential property lines.* No riding stable shall be located within 250 feet of the property line of any abutting property zoned residential and no riding path shall be located within 100 feet of the property line of any abutting property zoned residential.

- (3) *Extent of operations.* The operation of a riding stable shall be limited to the boarding of horses, the providing of riding lessons, and the renting of riding horses, saddles, bridles, and other accessories for use on the premises. No horse racing or horse shows shall be permitted on the premises; provided, horse shows displaying only those horses used in the daily operation of a riding stable may be permitted. The operation of a riding

stable shall be limited to the hours of 6:00 a.m. to 10:00 p.m.

- (4) *Number of horses permitted.* The number of horses permitted on premises used for a riding stable shall be limited to one horse for every three-fourths (3/4) acre of undeveloped land.

(Code 1965, App. A., Art. 7 (23); Ord. No. 1747, 6-29-70; Ord. No. 2123, 7-25-75; Code 1991, §160.092; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.19 Accessory Dwelling Units (ADU)

- (A) *Purpose.* The purpose of the accessory dwelling unit ordinance is to authorize accessory dwelling units in certain zoning districts on lots already developed or that will be developed concurrently with single-family dwellings.

- (B) *Intent.* Planning Staff shall evaluate the following criteria for the review and approval of an accessory dwelling unit application:

- (1) Exterior design of the accessory dwelling unit should be compatible with the principal dwelling unit through architectural use of building forms, height, construction materials, and colors.
- (2) The property shall have infrastructure (water, sewer, gas, electric, etc.) that meets City standards to serve the accessory dwelling unit.
- (3) The location and design of the accessory dwelling unit shall meet the required setbacks of the zoning district.
- (4) A two-story accessory dwelling unit should generally limit the major access stairs, decks, entry doors, and major windows to the walls facing the principal dwelling, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard should be minimized. The design of the accessory unit should relate to the design of the principal residence and not visually dominate it or the surrounding properties.
- (5) The orientation and location of buildings, structures, open spaces and other features of the site should protect and maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms. Building profiles, location and orientation should relate to natural land forms.

- (6) The site plan should incorporate low impact storm water mitigation techniques, such as cisterns, rain barrels, permeable pavers, rain gardens, indigenous plants and landscape berms.

- (C) *Permitted Zoning Districts:* Accessory dwelling units shall be exempt from the density requirements of the underlying zoning district and shall be permitted by-right on lots containing 5,000 square feet or more in the following Zoning districts:

- (1) R-A Residential Agricultural
- (2) RSF – 0.5 Residential Single Family – One Half Unit per Acre
- (3) RSF – 1 Residential Single Family – One Unit per Acre
- (4) RSF – 2 Residential Single Family – Two Units per Acre
- (5) RSF – 4 Residential Single Family – Four Units per Acre
- (6) RSF – 7 Residential Single Family – Seven Units per Acre
- (7) RSF – 8 Residential Single Family – Eight Units per Acre
- (8) NC Neighborhood Conservation

- (D) *Administrative Design Review and Approval.* All accessory dwelling units shall meet the following standards for administrative approval by the Zoning and Development Administrator. Prior to approval of an accessory dwelling unit, the Zoning and Development Administrator shall find that:

- (1) *Maximum Square Feet and Number of Bedrooms.* The accessory dwelling unit shall not be greater than 600 square feet of habitable space with a maximum of one bedroom. Detached accessory dwelling units located above garage space shall be permitted so long as they meet the height requirement herein.
- (2) *Zoning.* The accessory dwelling unit shall comply with all underlying zoning requirements including but not limited to building area, bulk and area, and setbacks with the exception of density.
- (3) *Parking.* One parking space shall be provided on-site for each accessory dwelling unit. Required parking for the accessory dwelling unit is in addition to the required

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parking for the principal dwelling unit. On-street parking may be counted towards the total parking requirement where it is allowed in the public right-of-way adjacent to the subject property.

- (4) *Existing Development on Lot.* A single-family dwelling shall exist on the lot or shall be constructed in conjunction with the accessory dwelling unit. No building permit shall be issued until this requirement is satisfied.
- (5) *Maximum Number of Accessory Dwelling Units per Lot.* A maximum of one accessory dwelling unit shall be permitted for each lot.
- (6) *Other Code Requirements.* The accessory dwelling unit shall comply with the requirements of the City of Fayetteville Uniform Building Code.
- (7) *Water and Sewer.* Water and sewer service for the accessory dwelling unit shall be connected directly to the public water and sewer system, where reasonably accessible in accordance with all applicable regulations, and shall be metered separately from the principal residence.
- (8) *Occupancy.* The property owner must permanently occupy either the principal or accessory dwelling unit.
- (9) *Maximum Occupancy of the Accessory Dwelling Unit.* A maximum of two persons shall reside in an accessory dwelling unit.
- (10) *Registration of Dwelling Units.* The principal and accessory dwelling unit shall be registered on an annual basis, from the date of approval, with the Planning Division to verify occupancy requirements.
- (11) *Tree Preservation.* To protect existing tree canopy to the greatest extent possible, prior to application for an accessory dwelling unit, the applicant shall consult with the Urban Forester, to prepare a site plan illustrating the location of all significant trees. All significant trees on the property shall be adequately protected during construction. Any proposed removal of significant trees on the site will require the following of the property owner:
 - (a) The applicant must show that the removal of a significant tree or trees is necessary in order to locate the accessory dwelling unit on the lot and also meet all contributing location requirements such as building setbacks,

utility or drainage easements, topography, etc.

- (b) For every significant tree removed the property owner shall replace said tree with a total of two (2) two-inch caliper large species shade trees from the list of approved tree species in a location deemed appropriate by the Urban Forester.
- (c) Should the Urban Forester find justifiable cause to determine a significant tree or trees were removed in an attempt to thwart the intent of this ordinance prior to application for an accessory dwelling unit, the application shall not be approved administratively.

(12) *Building Height and Stories.*

- (a) A one-story detached accessory dwelling unit shall be a maximum of 20 feet in height to the roof peak measured from the existing adjacent grade.
- (b) A detached accessory dwelling unit above one story shall be a maximum of 25 feet in height to the roof peak measured from the existing adjacent grade.
- (c) An attached accessory dwelling unit may occupy a first or second story of a principal dwelling unit and shall not in any instance be taller than the roof line of the principal dwelling unit.

(13) *Building Design.* The architectural design of the accessory dwelling unit shall relate to the design of the principal dwelling by the use of similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch. The following materials must be submitted for review of an application:

- (a) A material sample board indicating type of materials and colors to be used on the exterior of the building.
- (b) An architectural elevation drawing of all sides of the proposed structure.
- (c) Images or architectural elevations of the principal dwelling unit.

(E) *Site Plan Requirements.* Three sets of detailed site plans are required with the following information:

- (1) Scale no smaller than 1" = 30' (one inch equals thirty feet)

- (2) A north arrow
 - (3) Property lines
 - (4) Locations and dimensions of all rights-of-way, utility, drainage and tree preservation easements, and building setbacks
 - (5) All existing and proposed structures with accompanying uses
 - (6) Size of parcel in square feet or acres.
 - (7) Size of all existing and proposed structures in square feet
 - (8) Name of the applicant or property owner, plan preparer, project name and project address in a title block
 - (9) Pertinent special features such as drainage features, berms, fences, and retaining walls
 - (10) Parking areas, including driveways, with paving materials and dimensions
 - (11) A landscape plan showing the location of all proposed landscaping, size of plant materials and species
 - (12) Tree protection plan including all significant trees and protection measures
- (F) *Deed Restrictions.* Before obtaining a building permit for an accessory dwelling unit the property owner shall file with the Washington County Clerk's Office a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
- (1) The accessory dwelling unit shall not be sold separately from the principal residence.
 - (2) The accessory unit is restricted to the approved size.
 - (3) The property owner shall at all times reside on the property.
 - (4) The above restrictions are binding upon any successor in ownership of the property and shall run with the property.
- (G) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements for size (square feet), height, and materials for an accessory dwelling unit, where unique circumstances exist and the effect will not adversely affect adjoining or neighboring property

owners. Applicants may ask for a variance from the requirement for separate water and sewer taps if a hardship exists, such as difficult access or topography. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

(H) *Existing Detached Second (Accessory) Dwelling Units.*

(1) *Conforming Units.* Existing detached second dwelling units approved by the Planning Commission by conditional use and constructed shall be considered a legal conforming accessory dwelling on the property. Property owners shall register the principal and accessory dwelling on an annual basis with the Planning Division.

(2) *Nonconforming Units.* Existing detached second dwelling units that were not approved by the Planning Commission shall be considered nonconforming. An application for administrative approval may be made to convert an existing nonconforming detached second dwelling unit to a conforming legal detached second dwelling unit, where the existing unit can meet the requirements herein. Where an existing nonconforming second dwelling unit exists as of the date of the adoption of this ordinance that can not meet the requirements herein, the applicant may apply for a variance of the requirements stated.

(I) *Non-Conforming Structures.* Non-conforming structures may not be converted into an accessory dwelling unit unless a variance has been granted by the Board of Adjustment.

(J) If the property owner no longer resides on the property, the owner shall remove the cooking facilities from the Accessory Dwelling Unit or the City shall turn off water service to the Accessory Dwelling Unit.

(K) *Violation.* Violation of the requirements herein shall be prosecuted to the maximum extent of the law.

(Ord. 5128, 4-15-08)

164.20 Approval Of Vital Municipal Facilities

Regardless of any other provision within the Unified Development Code, the City Council after a public hearing and by a two-thirds majority vote may approve a Lot Split, Lot Line Adjustment or other appropriate development action and authorize the construction of a vital municipal facility including, but not limited to: a water storage tank, water or sewer pump station, water or sewer pipelines, fire station,

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police station, public communications facility and all accessory structures needed for such facilities.

(Ord. 5245, 6-16-09)

164.21-164.99 Reserved

