

TITLE XIV
ZONING REGULATIONS

CHAPTERS:

- 14.04 General Provisions**
- 14.08 Carroll County Airport Zoning**
- 14.10 Definitions**
- 14.12 Districts and Their General Requirements**
- 14.14 Bulk and Area Regulations**
- 14.16 Off-Street Parking Requirements**
- 14.18 Conditional Use Regulations**
- 14.20 Non-Conforming Use Regulations**
- 14.22 Administration of Zoning Regulations**
- 14.24 Amendment Procedure**
- 14.26 Penalty for Violations**
- 14.28 Zoning Regulations Adopted and Amended**

CHAPTER 14.04

GENERAL PROVISIONS

SECTIONS:

- 14.04.01 Title**
- 14.04.02 Purpose**
- 14.04.03 Scope**
- 14.04.04 Jurisdiction**
- 14.04.05 Authority**
- 14.04.06 Severability**

Section 14.04.01 Title.

These regulations shall be known as the Berryville Zoning Code, and shall be permitted to be cited as such and will be referred to herein as “this code” or “the code”.

Section 14.04.02 Purpose.

The purpose of this code is to safeguard the health, property and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within this jurisdiction.

Section 14.04.03 Scope.

The provisions of this code shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located in a public way, public utility towers and poles, and public utilities unless specifically mentioned in this code. Where, in any specific case, different sections of this code specify different requirements, the more restrictive shall govern. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. In fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although through the implementation, administration and enforcement of this code, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a by-product of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort.

Section 14.04.04 Jurisdiction.

The territorial jurisdiction of these regulations includes the land within the corporate city limits of the City of Berryville.

Section 14.04.05 Authority.

These zoning regulations are adopted pursuant to the authority granted by Arkansas Code Annotated Section 14-56-401, et seq.

Section 14.04.06 Severability.

If any section, phrase, or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of the ordinance.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

CHAPTER 14.08

CARROLL COUNTY AIRPORT ZONING

SECTIONS:

- 14.08.01 Short Title**
- 14.08.02 Definitions**
- 14.08.03 Zones**
- 14.08.04 Height Limitations**
- 14.08.05 Use Restrictions**
- 14.08.06 Non-Conforming Uses**
- 14.08.07 Permits**
- 14.08.08 Enforcement**
- 14.08.09 Board of Adjustment**
- 14.08.10 Appeals**
- 14.08.11 Judicial Review**

Section 14.08.01 Short Title.

This order shall be known and may be cited as Carroll County Airport Zoning Ordinance.

CROSS REFERENCE: Ordinance 212; Section 1; January 14, 1966

Section 14.08.02 Definitions.

As used in this ordinance, unless the context otherwise requires:

1. AIRPORT: Means Carroll County Airport.
2. AIRPORT ELEVATION: Means the established elevation of the highest point on the usable landing area.
3. AIRPORT HAZARD: Means any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.
4. AIRPORT REFERENCE POINT: Means the point established as the approximate geographic center of the airport landing area and so designated.
5. BOARD OF ADJUSTMENT: Means a board consisting of five (5) members appointed by the Judge of Carroll County, as authorized by Section 14-363-303 Arkansas Code Annotated.

6. HEIGHT: For the purpose of determining the height limits in all zones set forth in this order and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
7. LANDING AREA: Means the area of the Airport used for the landing, take-off or taxiing of aircraft.
8. NON-CONFORMING USE: Means any structure, tree or use of land which is lawfully in existence at the time the regulation is prescribed in this chapter or an amendment thereto becomes effective and does not then meet the requirements of said regulation.
9. NON-INSTRUMENT RUNWAY: Means a runway other than an instrument runway.
10. PERSON: Means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.
11. RUNWAY: Means the paved surface of an airport landing strip.
12. STRUCTURE: Means an object constructed or installed by man, including but without limitation, buildings, towers, smoke-stacks, and overhead transmission lines.
13. TREE: Means any object of natural growth.

CROSS REFERENCE: Ordinance 212; Section 2; January 14, 1966

Section 14.08.03 Zones.

In order to carry out the provision of this chapter, there are hereby created and established certain zones which include all the land lying within the Non-Instrument Approach Zones, Horizontal Zone and Conical Zone. Such areas and zones are shown on Carroll County Airport Zoning Map consisting of one (1) sheet, prepared by Wright - Weeks Engineering Company, and dated October 27, 1965 which is attached to this chapter and made a part hereof.

1. NON-INSTRUMENT APPROACH ZONE: A non-instrument approach zone is established at each end of all non-instrument runways on Carroll County Airport for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of two hundred (200) feet at a distance of one hundred (100) feet beyond each end of the runway, widening thereafter uniformly to a width of five hundred (500) feet at a distance of three thousand one hundred (3,100) feet beyond each end of the runway; its centerline being the continuation of the centerline of the runway.

2. HORIZONTAL ZONE: A horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of five thousand (5,000) feet. The horizontal zone does not include the non-instrument approach zones.
3. CONICAL ZONE: A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of three thousand (3,000) feet. The conical zone does not include the non-instrument approach zone.

CROSS REFERENCE: Ordinance 212; Section 3; January 14, 1966

Section 14.08.04 Height Limitations.

Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, maintained or allowed to grow, in any zone created by this chapter. Such heights in excess of the height limit herein established for such port elevation and are computed from the established for each of the zones in question as follows:

1. NON-INSTRUMENT APPROACH ZONES: One (1) foot in height for each twenty (20) feet in horizontal distance beginning at a point non-instrument runway and extending to a point three thousand one hundred (3,100) feet from the end of the runway.
2. HORIZONTAL ZONE: One hundred fifty (150) feet above the airport elevation or a height of one thousand three hundred fifty-seven (1,357) feet above mean sea level; and
3. CONICAL ZONE: One (1) foot in height for each twenty (20) feet of horizontal distance, beginning at the periphery of the horizontal distance, beginning at the horizontal zone and measured upward and outward for a horizontal distance of three thousand (3,000) feet to a height of three hundred (300) feet above the established airport elevation.

CROSS REFERENCE: Ordinance 212; Section 4; January 14, 1966

Section 14.08.05 Use Restrictions.

Notwithstanding any other provisions of this ordinance, no use may be made of land within any zone established interference with radio communication between the Airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking-off or maneuvering of aircraft.

CROSS REFERENCE: Ordinance 212; Section 5; January 14, 1966

Section 14.08.06 Non-Conforming Uses.

a) Regulations Not Retroactive. The regulations prescribed by this ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

b) Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any non-conforming structure or tree is required to permit the installation, operation and necessary by the Carroll County Airport Commission to indicate to the operators of aircraft in the vicinity of the Airport, the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the County of Carroll.

CROSS REFERENCE: Ordinance 212; Section 6; January 14, 1966

Section 14.08.07 Permits.

a) Future Uses - Except as specifically provided in paragraphs 1 and 2 hereafter, no material change shall be made in the use of otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted:

1. In the area lying within the limits of the Horizontal Zone and the 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 such tree or structure would extend above the height limits prescribed for such zone.

2. In the areas lying within the limits of the non-instrument approach zones but at a horizontal distance of not less than two thousand one hundred (2,100) feet from each end of the runways, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground except when such tree or structure would extend above the height limit prescribed for such non-instrument approach zone. Nothing contained in any of the forgoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this ordinance except as set forth in this Chapter.

b) Existing Use. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this ordinance or any amendments thereto or than it is when the application for a permit shall be granted.

c) Non-conforming Uses Abandoned or Destroyed. Whenever the County of Carroll Airport Commission determines that a non-conforming structure or tree has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

d) Variances. Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this order, may apply to the Carroll County Airport Commission for a variance from such regulation. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this ordinance.

e) Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the County of Carroll Airport Commission at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

CROSS REFERENCE: Ordinance 212; Section 7; January 14, 1966

Section 14.08.08 Enforcement.

It shall be the duty of the Carroll County Airport Commission to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Carroll County Airport Commission upon a form furnished by it. Applications required by this order to be submitted to the Carroll County Airport Commission shall be promptly considered and granted or denied by it. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Carroll County Airport Commission.

CROSS REFERENCE: Ordinance 212; Section 8; January 14, 1966

Section 14.08.09 Board of Adjustment.

a) There is hereby created a Board of Adjustment to have and exercise the following powers:

1. to hear and decide appeals from any order requirement, decision or determination made by the Carroll County Airport Commission in the enforcement of this ordinance.
2. to hear and decide special exceptions to the terms of this ordinance upon which such Board of Adjustment under such regulations may be required to pass; and,
3. to hear and decide special variances.

b) The Board of Adjustment shall consist of five (5) members appointed by the Judge of the County of Carroll and each shall serve for a term of three (3) years and until his successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one (1) year, two for a term of two (2) years and two for a term of three (3) years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

c) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this order. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indication of such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Judge of the County of Carroll and shall be a public record.

d) The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this ordinance.

e) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Airport Commission or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance.

CROSS REFERENCE: Ordinance 212; Section 9; January 14, 1966

Section 14.08.10 Appeals.

- a) Any person aggrieved, or any taxpayer affected, by any decision or the opinion that a decision is an improper application of these regulations, may appeal to the Board of Adjustment.
- b) All appeals hereunder must be taken within a reasonable time as provided by the Board of Adjustment, by filing with the Carroll County Airport Commission a notice of appeal specifying the grounds thereof. The Carroll Airport Commission shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Carroll County Airport Commission certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stayed in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the agency from which the appeal is taken and on due cause shown.
- d) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- e) The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

CROSS REFERENCE: Ordinance 212; Section 10; January 14, 1966

Section 14.08.11 Judicial Review.

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, may appeal to the Circuit Court of Eastern District of Carroll County, Arkansas.

CROSS REFERENCE: Ordinance 212; Section 11; January 14, 1966

CHAPTER 14.10

DEFINITIONS

SECTIONS:

- 14.10.01 Scope**
- 14.10.02 Interchangeability**
- 14.10.03 Terms defined in other codes**
- 14.10.04 Terms not defined**
- 14.10.05 Definition of terms**

Section 14.10.01 Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter.

Section 14.10.02 Interchangeability.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neutral; the singular number includes the plural and the plural the singular.

Section 14.10.03 Terms defined in other codes.

Where terms are not defined in this code and are defined in other City codes, such terms shall have the meanings ascribed to them as in those codes.

Section 14.10.04 Terms not defined.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context imply.

Section 14.10.05 Definition of Terms.

1. **ACCESSORY BUILDING.** A subordinate building or a portion of the main building, which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this ordinance) located on the same lot as, the use of the main building or principal use of land, such as a detached garage.
2. **ACCESSORY USE.** A use conducted on the same lot as the primary use of the structure to which it is related; a use, which is clearly incidental to and customarily found in connection with, such primary use. When “accessory” is used in the text it shall have the same meaning as accessory use.

3. **APARTMENT HOUSE.** A residential building designed or used for three (3) or more dwelling units.
4. **BED & BREAKFAST FACILITY.** A limited commercial activity, conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short-term guest lodging. The operator of the inn shall live on the premises or in adjacent premises.
5. **BOARDING HOUSE.** A residential structure where rooms and meals are provided to tenants so that residency may be established. Boarding houses are classified as multiple family dwellings.
6. **BLOCK FRONT.** All of the property on one side of a street between two intersecting streets or between an intersecting street and the dead end of a street.
7. **BUILDING.** Any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property and forming a construction that is safe and stable. The word “building” shall include the word “structure”.
8. **BUILDING HEIGHT.** The vertical distance from the grade (elevation of the curb, sidewalk or average elevation of the ground around the structure) to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.
9. **CELLAR.** A portion of a building located partly or wholly underground and having one-half or more of its floor-to-ceiling height below the average grade of the adjoining ground.
10. **COMMISSION.** The Planning Commission of the City of Berryville.
11. **CONVALESCENT CENTER.** A facility which is publicly or privately operated and intended for long-term patient care due to human illness or infirmity, including the elderly and developmentally disabled, normally employing the services of skilled and licensed practitioners, excluding hospitals.
12. **DAY CARE, FAMILY.** The keeping of children for part-time care and/or instruction, whether or not for compensation, within a dwelling, not including members of the family residing on the premises. The number of which does not require licensure by the State of Arkansas.
13. **DAY CARE, GROUP.** An establishment for the part-time care and/or instruction of persons, whether or not for compensation. The number of which requires licensure by the State of Arkansas. Child nurseries, preschools, and adult care facilities are included in this definition.
14. **DORMITORY.** A residential structure with separate sleeping rooms for individual tenants and a common area where tenants may gather or purchase meals. Dormitories

are classified as multiple family dwellings unless they are located on a school campus to house students. In that case, dormitories are considered to be a part of the school for purposes of determining the appropriate zone classification.

15. **DUPLEX.** A single habitable structure containing two self-contained living units and designed to provide residences for two families. Duplexes are classified as two family dwellings.
16. **DWELLING.** Any building or portion thereof designed or used exclusively for residential purposes.
17. **DWELLING, SINGLE FAMILY.** A detached residential dwelling unit other than a manufactured or mobile home designed for and occupied by one family only.
18. **DWELLING, TWO-FAMILY.** A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families.
19. **DWELLING, MULTI-FAMILY.** A detached residential building containing more than two (2) dwelling units.
20. **DWELLING UNIT.** One room or group of rooms connected together within a dwelling and forming a single habitable unit with facilities for living, sleeping, cooking and sanitation as required by this code.
21. **FAMILY.** An individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit
22. **FLOOR AREA, GROSS.** The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating buildings but not including cellar or basement space not used for retailing and not including accessory off-street parking or loading space.
23. **GARAGE, PRIVATE.** An accessory building used only for the housing of motor vehicles, without their equipment for operation, repair, hire or sale.
24. **GARAGE, PUBLIC.** A garage other than a private garage.
25. **HOME OCCUPATION.** The accessory use of a residential dwelling for gainful employment in such a manner and under such conditions and restrictions that the business use is compatible with and does not disrupt the residential character of the neighborhood.
26. **HOTEL.** A commercial establishment containing six (6) or more guest rooms that provides lodging and usually meals for travelers and that is most commonly located in a central business district or near an airport, train station, or other source of mass transportation.

27. **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 Title, and having its principal frontage upon a street.
28. **LOT OF RECORD.** A lot or parcel of land, the deed to which has been recorded in the office of the County Recorder of Carroll County prior to the adoption of this code.
29. **MAJOR STREET.** A street designated as an arterial or collector street.
30. **MANUFACTURED HOME.** A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, having a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. It shall bear a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code.
31. **MANUFACTURED HOME SUBDIVISION.** A parcel of land platted for subdivision according to all requirements of the comprehensive plan designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.
32. **MOBILE HOME.** A transportable, factory built home, designed to be used as a year round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.
33. **MANUFACTURED HOME PARK.** Any plot of ground on which there are located or intended to be located two (2) or more manufactured homes to be occupied for dwelling or living purposes.
34. **MODULAR HOME.** A factory-built home, other than a manufactured or mobile home, which is erected on a site-built permanent foundation and is not designed to be moved once so erected. It shall be designed and manufactured to comply with all applicable building codes, whether national, state, or local and to the manufacturer's knowledge, is not intended to be used other than on a site-built permanent foundation. Modular homes are considered single family dwellings.
35. **MOTEL.** A commercial establishment providing six (6) or more guest rooms for travelers and is designed to accommodate the motoring public.
36. **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 regulations of the district within which it is located.
37. **PARKING LOT.** Use of a plot of ground or parcel of real estate for the parking of vehicles used by customers and employees of that business.

38. **PARKING SPACE.** A surfaced area enclosed or unenclosed, sufficient in size to store one automobile (not less than nine feet wide and twenty feet long) connected to a public street or alley by a surfaced driveway and permanently reserved for the parking or storage of one motor vehicle.
39. **PORTABLE CARPORT.** An unenclosed accessory structure used only for the shelter of motor vehicles, typically constructed with steel or other metal materials, and designed to be capable of relocation.
40. **PREMISES.** A lot, together with all building and structures thereon.
41. **PUBLIC PROTECTION/UTILITY FACILITY.** A structure or facility used by a public or quasi-public utility agency to store, distribute, or generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste. This type of facility ordinarily is not located in the street right-of-way and can be significantly objectionable to nearby residential, commercial, and light industrial uses.
42. **QUASI-PUBLIC.** Essentially a public use, although under private ownership or control.
43. **RECREATIONAL VEHICLE.** A vehicular unit, other than a mobile home, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.
44. **RECREATIONAL VEHICLE PARK.** Any lot of land upon which two (2) or more recreational vehicle or tent sites are located, established or maintained for temporary occupancy by recreational vehicles of the general public. (See Chapter 14.14, Section 14.14.02 for Recreational Vehicle Park Development Standards.)
45. **REHABILITATION CENTER.** A facility, required to be licensed by the State of Arkansas, whose primary purpose is the rehabilitation of persons. Such services include rehabilitation, treatment, care, supervision and/or training to the aged, disabled, those convicted of crimes, those suffering the effects of drugs or alcohol, or those emotionally and mentally disturbed. This does not include family or group day-care centers, foster homes, schools, hospitals, jails or prisons.
46. **RESTAURANT.** An establishment which sells prepared food for consumption.
47. **SETBACK.** The minimum required distance between the property line and the building line.
48. **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 the 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 opposites exterior walls are not more than four feet above the floor of each story.

49. **STREET.** Any public or private way set aside as a permanent right-of-way for street purposes.
50. **STRUCTURE.** Anything constructed or erected, the use of which requires permanent location on the ground.
51. **STRUCTURAL ALTERATION.** Any change in structural members of a building, such as walls, columns, beams or girders.
52. **THEATER.** A building used primarily for the presentation of live stage productions, performances, or motion pictures.
53. **VARIANCE.** A deviation from the height, bulk, setback, parking or other dimensional requirements established by this code.
54. **WAREHOUSE, WHOLESALE OR STORAGE.** A building or premises in which goods, merchandise, or equipment are stored for eventual distribution.
55. **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.
56. **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.
57. **YARD, REAR.** A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, enclosed porches or entryways.
58. **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 side of the main building or any projections thereof.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 834; Section 1; December 7, 2004

CHAPTER 14.12

DISTRICTS AND THEIR GENERAL REQUIREMENTS

SECTIONS:

- 14.12.01 Classification**
- 14.12.02 Boundaries**
- 14.12.03 Annexed Territory**
- 14.12.04 R-1 Use Regulations**
- 14.12.05 R-2 Use Regulations**
- 14.12.06 R-3 Use Regulations**
- 14.12.07 R-4 Use Regulations**
- 14.12.08 R-O Use Regulations**
- 14.12.09 RMH Use Regulations**
- 14.12.10 MHP Use Regulations**
- 14.12.11 C-1 Use Regulations**
- 14.12.12 C-2 Use Regulations**
- 14.12.13 I-1 Use Regulations**
- 14.12.14 Planned Unit Development (PUD) Regulations**
- 14.12.15 General Requirements of Residential Development**

Section 14.12.01 Classification.

In order to classify, regulate and restrict the locations of uses and location of buildings designated for specific areas; and to regulate and determine the areas of yards, courts and other open spaces within or surrounding such buildings, property is hereby classified into districts as prescribed in this chapter. The City of Berryville is divided into ten (10) zoning districts to be known as follows:

- R-1 Residential District**
- R-2 Residential District**
- R-3 Residential District**
- R-4 Residential District**
- R-O Residential-Office District**
- RMH Residential Manufactured Housing District**
- MHP Manufactured Home Park District**
- C-1 Central Business District**
- C-2 Highway Commercial District**
- I-1 Industrial District**

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

Section 14.12.02 Boundaries.

The boundaries of these districts are shown on the Zoning Map, which accompanies and is made part of this code. The original of this map is properly attested and on file with the City Clerk and shall serve as the Official Zoning Map of the City of Berryville.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed as following such centerlines.
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- d. Boundaries indicated as parallel to or extensions of features mentioned in the preceding rules shall be so construed.
- e. In cases where a specific property has been rezoned, the legal description contained on the original enacting ordinance for the rezoning shall serve as the official boundary for the zoning district, with the zoning map serving as a representation of that boundary
- f. In circumstances not covered by the preceding rules, the Board of Zoning Adjustment shall interpret the district boundaries.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 931; Sections 1-2; June 5, 2012

Section 14.12.03 Annexed Territory

Any territory hereafter annexed shall automatically, upon such annexation, be classified as R-1 Residential district and be subject to all conditions and regulations applicable to property in such district until a zoning hearing can be scheduled and conducted.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

Section 14.12.04 R-1 Use Regulations

This district is intended to include those quiet residential neighborhoods characterized by single-family homes on spacious lots, plus certain areas where a similar residential development is likely to occur.

In any R-1 Residential District only the following uses are permitted:

1. Single family dwellings.
2. Churches, schools and libraries.
3. Public facilities; including, parks, playgrounds, community centers, fire stations, police stations, city hall and historical markers.
4. Essential services located in public rights-of-way.
5. Golf courses and private clubs not operated for gain.
6. Home occupations, as defined.
7. Family day-cares.
8. Temporary buildings, the uses of which are incidental to construction operations being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary building, whichever is sooner.
9. Accessory buildings and uses customarily incidental to the above uses, including church, school and similar bulletin boards and signs pertaining to the lease, hire or sale of a building or premises, provided that any such accessory building is not constructed prior to beginning construction of the main building.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

Section 14.12.05 R-2 Use Regulations

This district is intended to include lesser developed residential neighborhoods characterized by single-family and two-family homes on spacious lots.

In any R-2 Residential District only the following uses are permitted:

1. Any use permitted in R-1 Residential District.
2. Two-family dwellings.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

Section 14.12.06 R-3 Use Regulations

This district is intended to include those quiet residential neighborhoods characterized by single, two, and multi-family dwellings, plus certain areas where similar development is likely to occur.

In any R-3 Residential District only the following uses are permitted:

1. Any uses permitted in R-1 Residential District.
2. Two-family dwellings.
3. Multi-family dwellings.
4. Group day-cares.
5. Single-family manufactured homes

Note: The placement of such homes is subject to the same standards, restrictions and requirements as stated within Section 14.12.09 of this chapter.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 818; Section 1; November 18, 2003

Section 14.12.07 R-4 Use Regulations

This medium density residential district of eight (8) families per acre is intended to permit and encourage the development of a variety of single family dwelling types, including zero lot line units suitable for affordable housing development. Uses within this district should be considered compatible with surrounding residential uses. This district may be used to serve as a buffer between higher (R-3) and lower (R-1) density residential development.

In any R-4 Residential District only the following uses are permitted:

1. Any uses permitted in R-1 Residential District.

In any R-4 Residential District the following uses are conditionally permitted:

1. Public protection/utility facilities.
2. Governmental facilities; including, post office, city/county jail, courthouse, and offices.

Design Standards:

1. Any subdivision located within a R-4 District shall have a minimum of five (5) lots and 25,000 square feet, exclusive of streets and common areas.
2. All lots within an R-4 District whose side yards adjoin any other residential district must adhere to the side yard setback of the adjoining district.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 931; Section 3; June 5, 2012

Section 14.12.08 R-O Use Regulations

This district is intended to provide area for offices without limitation to the nature or size of the office, together with community facilities and compatible residential uses.

In any R-O Residential-Office District only the following uses are permitted:

1. Any uses permitted in R-1 Residential District.
2. Two-family dwellings.
3. Group day-cares.
4. Recreation and related uses; including, museums, arboretums, wild life preserves, etc.
5. Water facilities; including, reservoirs, watershed conservation projects, flood control projects, etc.
6. Governmental facilities; including, post office, city/county jail, courthouse, and offices.

7. Offices, studios, medical and dental labs, and other compatible or supporting service and sales; including, advertising agencies, fine arts studios, barber/beauty shops, data processing centers, drafting services, dental clinics, financial institutions, funeral homes, hospitals, medical clinics, convalescent centers, rehabilitation centers, office buildings, social/welfare agencies, auto parking garages, employment agencies, florists, mini-storage, photo copying service, printing service, travel agencies, business/office supply stores, medical/dental/optical supply stores, bed & breakfasts.
8. Small professional offices that are compatible with medium and high density residential areas; including, accountants, architects, engineers, attorneys, consultants, chiropractors, doctors, dentists, real estate agents, insurance agents, photography studios.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

Section 14.12.09 RMH Use Regulations

This district is intended as a low density residential district of six dwelling units or less per acre designed to permit and encourage the location of manufactured housing units in a typical single-family environment, applicable to parcels with a minimum of five acres.

In any RMH Residential Manufactured Housing District only the following uses are permitted:

1. Any uses permitted in R-2 Residential District.
2. Single-family manufactured housing structures.
3. Group day-cares.

In any RMH Residential Manufactured Housing District the following uses are conditionally permitted:

1. Public protection/utility facilities.

General Requirements:

1. Prior to the location, relocation or establishment of any manufactured home within a RMH District, the homeowner or authorized representative shall secure a building permit.

Exterior Appearance Standards: Manufactured homes located within a RMH District shall be compatible and similar in appearance with site-constructed residences, in that they shall:

1. Have more than five hundred seventy-six (576) square feet of occupied space;
2. Have a minimum width and length of at least twenty-four (24) feet;
3. Be placed onto permanent foundation system in accordance with the manufacturer's specifications or the regulations of the Arkansas Manufactured Home Commission, whichever is more restrictive;
4. Be anchored to the permanent foundation system in accordance with the manufacturer's specifications or the regulations of the Arkansas Manufactured Home Commission, whichever is more restrictive;
5. Set onto an excavated area with permanent perimeter walls constructed of block, brick or stone with foundations, footings or a crawl space or basement walls constructed in accordance with the Standard Building Code. The space between the floor joists of the home and the excavated area shall be completely enclosed with the permanent perimeter enclosure (except for required openings);
6. Have wheels, axles and hitch mechanism removed;
7. Have utilities connected in accordance with applicable HUD or manufacturer's specifications, whichever is more restrictive.
8. Have siding material of a type customarily used on site-constructed residences, excluding smooth, ribbed, or corrugated metal or plastic panels;
9. Have pitched roofs and roofing material of a type customarily used on site-constructed residences.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 818; Sections 2 & 3; November 18, 2003
Ordinance 931; Section 4; June 4, 2012

Section 14.12.10 MHP Use Regulations

This district is designed to locate manufactured homes near residential facilities such as schools, play areas, and convenience shops in courts with a density of ten dwelling units per acre or less.

In any MHP Manufactured Home Park District only the following uses are permitted:

1. Any uses permitted in R-1 Residential District.
2. Manufactured home parks.
3. Group day-cares.

In any MHP Manufactured Home Park District the following uses are conditionally permitted:

1. Public protection/utility facilities.
2. Governmental facilities; including, post office, city/county jail, courthouse and offices.

General Requirements:

1. Manufactured homes located within a MHP District must be properly secured in accordance with applicable federal, state or local codes or manufacturer's specifications, whichever is more restrictive.
2. Utilities must be connected in accordance with applicable city codes or manufacturer's specifications, whichever is more restrictive.
3. There shall be at least 300 square feet of common recreation space per manufactured home lot; however, the minimum area of any common recreation area shall be 8,000 square feet, and the minimum width of any such area shall be 60 feet. Each required common recreation area shall be within 300 feet of each of the manufactured homes it is intended to serve, measured along a route of pedestrian access. Such recreation area shall be no closer than 25 feet to any property line.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 931; Section 5; June 5, 2012

Section 14.12.11 C-1 Use Regulations

This district is located centrally to the surrounding area and is intended to provide space for retailing services of all kinds. This includes offices, banks, hotels and places of amusement, plus limited industry, wholesaling, warehousing and storage of goods which do not unduly disturb the retail character of the area.

In any C-1 Central Business District only the following uses are permitted:

1. Banks, stores, shops and personal service establishments.
2. Essential services located in public rights-of-way.
3. Group day-cares.
4. Bowling alley.
5. Funeral home or mortuary.
6. Hotels and bed & breakfasts.
7. Offices and office buildings.
8. Public garages, filling stations and automobile repair shops or parking lots.
9. Theaters, museums, assembly halls, and restaurants.
10. Wholesale merchandising or storage warehouses.
11. General service and repair establishments including dyeing, laundry, plumbing and heating, printing, painting, upholstering, tinsmithing or appliance repair shop.
12. Accessory buildings and uses, including accessory signs and advertising structures related to the activity conducted on the premises.

In any C-1 Central Business District the following uses are conditionally permitted:

1. Generally those light manufacturing uses which do not create danger to health and safety in surrounding areas, and which do not create any more offensive noise, vibration, smoke, dust, lint, odor, heat, or glare than that which is generally associated with industries which do not have a negative effect on surrounding land uses.
2. Residential uses within commercial structures.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 931; Sections 6-7; June 5, 2012

Section 14.12.12 C-2 Use Regulations

This district is intended to provide space for certain retail and business activities and primarily serves the motoring public. It is characterized by establishments such as motels, drive-in restaurants, automobile sales and service, gasoline service stations, and other activities of this nature.

In any C-2 Highway Commercial District only the following uses are permitted:

1. Any use permitted in the C-1 Central Business District.
2. Skating rink.
3. Farm equipment, sale and repair.
4. Motels.
5. Hospitals, convalescent centers, rehabilitation centers.
6. Animal hospital or clinic.
7. Drive-in theaters and drive-in restaurants.
8. Truck terminals.
9. Animal sales barns.
10. Structures for the sale of farm and other produce.
11. RV parks.
12. Accessory buildings and uses including signs and advertising structures related to the activity conducted on the premises.

In any C-2 Highway Commercial District the following uses are conditionally permitted:

1. Generally those light manufacturing uses which do not create danger to health and safety in surrounding areas, and which do not create any more offensive noise, vibration, smoke, dust, lint, odor, heat or glare than that which is generally associated with industries which do not have a negative effect on surrounding land uses.
2. Residential uses within commercial structures.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 931; Sections 8-9; June 5, 2012

Section 14.12.13 I-1 Use Regulations

This district is intended to provide space for manufacturing activities, wholesaling, warehousing, storage, assembling, packaging, and similar uses. It is an area where general manufacturing activities can take place.

In any I-1 Industrial District only the following uses are permitted:

1. Any business, commercial or industrial uses which are not likely to create hazards of fire, explosion, noise, vibration, dust, lint, or the emission of smoke, odor or toxic gases.
2. Industrial uses having 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 Berryville or the State of Arkansas, be located in the I-1 Industrial District only after the location and nature of such uses shall have been approved by the City Council, after public hearing and report by the Commission as provided in Conditional Use and Non-Conforming Use Regulations. The Council shall review the plans and statements and shall not permit such buildings, structures or uses until it has been shown that public health, safety, morals and general welfare will be properly protected, and that the necessary safeguards will be provided for the protection of the surrounding property and persons. The Council in reviewing the plans and statements shall consult with other agencies created for promotion of public health and safety.
3. Essential services located in public rights-of-way.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

Section 14.12.14 Planned Unit Development (PUD) Regulations

An application made for a Planned Unit Development (PUD) shall be consistent with the following guidelines:

General Description:

The purposes of this zone are to promote flexibility and innovation in the design of large-scale developments and to encourage the use of vacant, in-fill parcels in the built up portion of the city. The zone also promotes the inclusion of open space into project design. The Planned Unit Development (PUD) is a superimposed description that provides wider latitude of design to achieve the goals stated above.

In concept, the PUD is a combination of zoning designation and development plan. A detailed development plan is required for approval. Development must follow the development plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged, and flexibility is allowed, the PUD may not be used simply as a method of avoiding zoning regulations. The Planning Commission shall consider a PUD proposal only if it meets one of the following threshold criteria:

1. The PUD will allow the development of an infill parcel in the developed portion of the city that could not be made productive under normal zoning regulations.
2. The PUD would further the city's goal of providing housing for all economic segments of the city and its Planning Area Boundary.
3. The PUD involves a large parcel in which flexibility would allow high quality or innovative urban design.
4. The PUD would aid in the elimination of slums and blight within the city and its Planning Area Boundary.
5. The PUD design results in a minimum of thirty percent (30%) of the total development being reserved as permanent open space.

PUD's may be residential, commercial, industrial or mixed-use in nature. The development plan shall clearly depict the proposed land uses. There are no minimum lot size restrictions for PUD's; however, the Planning Commission will consider PUD's on less than one (1) acre only under special circumstances.

Application Process:

The applicant for a PUD permit shall be the owner(s) of the property or the party designated to act as agent for the owner(s). The responsibilities of the applicant are as follows:

1. *Pre-application Conference* – Each prospective applicant shall confer with the Building Inspector in connection with the preparation of the application prior to the submission. At this conference, the following information and data shall be considered:
 - A. The boundaries of the property;
 - B. Existing easements and covenants affecting the property;
 - C. Physical characteristics such as drainage, topography, vegetation and existing structures;
 - D. Development characteristics such as surrounding land uses, existing streets and availability of utilities;
 - E. Elements of the proposed layout such as land uses, open spaces, community facilities, densities, traffic flow and estimated impact on traffic and adjacent land uses.

2. *Development Plan Submittal* – No less than twenty (20) days prior to the Planning Commission meeting at which the proposed PUD is to be reviewed, the applicant shall submit ten (10) copies of the proposed development plan to the Building Inspector. The submittal shall include the following information, at a minimum:
 - A. A development plan drawn to scale on vellum accompanied by an electronic version of the same in a format compatible with AutoCad® in the version required by the City. Survey information shall be prepared by a Professional Surveyor (PLS). Drainage and utility calculations shall be prepared by a Professional Engineer (PE). The stamps of the individuals responsible for the various elements shall be indicated on the drawing.
 - B. Name of the developer.
 - C. Name and address of property owner.
 - D. Type of activity.
 - E. Building footprints for the individual buildings to be included in the PUD.
 - F. Topographic contours at two (2) foot intervals.
 - G. All easements existing or proposed.

- H. Street right-of-ways and street names.
- I. All drives, access-ways, alleys, parking lots and any streets proposed to be dedicated.
- J. Proposed landscaping.
- K. Open space and community facilities, if any, proposed as part of the PUD.
- L. Location of all existing and proposed private and public utilities.
- M. Names of the owners of adjacent properties.
- N. Zoning classification of adjoining properties.
- O. Construction drawings as necessary to support the proposals outlined in the development plan.
- P. Exterior lighting and speakers.

PUD Use Regulations:

The PUD submittal shall include a listing of the proposed land uses and the amount of land devoted to each. The use regulations for PUD's are as follows:

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 buildings, accessory structures, and yards but required by the zoning of the site, shall be 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 Public Works Director shall be posted with the City for completion of said open space improvements prior to such sale. The development plan shall clearly depict the amount of land to be maintained as permanent open space.
3. *Development Density* – The development plan shall clearly depict the proposed density by land use category.
4. *Property Owners' Association* – As part of the plan proposed for any PUD, the developer shall submit a set of covenants for the development, providing for an automatic membership in the development's Property Owners' Association, to be an

incorporated nonprofit organization, operating under recorded land agreements, through which each property owner in the PUD is automatically subject to a charge for an appropriate and 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 Berryville, either for maintenance or liability of the following, which shall include, but not be limited to: any private open areas, parks, recreational facilities, etc. A hold harmless clause shall also be incorporated in the covenants for the development to this effect. It shall be provided further, however, that when an owner of a PUD 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 Open Spaces* – The size, shape, dimension and location of the common open spaces shall be determined by the Planning Commission in conjunction with the developer or subdivider, with consideration given to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration shall 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 the arrangements for its maintenance and improvement for the benefit of the residents of the PUD. The developer shall file, at the time the approved final plat is filed, legal documents that will produce the aforesaid guarantees and, in particular, will provide for restricting the use of common open spaces for the designated purpose.
7. *Landscaping Plan* – In order to minimize the disturbance of the natural environment, a general landscaping plan shall also be required at the time the development plan is submitted showing the spacing, sizes and specific types of landscaping material. The Planning Commission shall review the landscaping plan in conjunction with the review of the development plan. The preservation of the natural amenities within the PUD shall be given due consideration, which shall include topography, trees, 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, walkways, paved areas, playgrounds, parking areas and finished grade levels. The Planning Commission shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees and other natural features before the commencement of building operations shall be discouraged by the Planning Commission.

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 the PUD shall be connected to streets outside the development in such a way as to limit or eliminate 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 necessary by the Planning Commission, pedestrian underpass or overpass crosswalks in the vicinity of schools, playgrounds, local shopping areas and other neighborhood uses that generate a considerable amount of pedestrian traffic.
9. *Land Subdivision* – In the construction and installation of all subdivision improvements in the PUD, said improvements shall conform to all requirements and standards as set forth in the City's Subdivision Regulations, unless exception to the requirements is approved by the Planning Commission and the City Council.
10. *Street Dedication* – If, in the future, the owner(s) of a PUD should request that the private streets be dedicated as public streets, the owner(s) do fully agree that they will bear full expense of reconstruction or any other action or improvement necessary to make the streets fully conform to the requirements and standards applicable to public streets prior to the dedication and acceptance of said streets by the City. The owner(s) shall also agree that said streets shall be dedicated to public use without compensation from the City.

Review Process:

The Planning Commission shall review the proposed PUD after proper submittal of all documents and preliminary review by the appropriate City staff. The following criteria shall govern the review process of a PUD application by the Planning Commission:

1. The PUD shall provide public benefits that would not be achievable through normal zoning regulations.

2. The PUD shall conform in size, shape and area to those in surrounding developments. The Planning Commission may make exceptions when adequate buffering is included with the PUD to shield adjoining uses from the adverse effects of higher land use intensities. The Planning Commission may also make exceptions when the PUD clearly presents a logical and acceptable concept of transition between different uses or neighborhoods of differing densities or intensities.
3. The PUD shall be compatible with the adopted plans and policies of the City, including, but not limited to, the Comprehensive Development Plan and Master Street Plan. If the PUD application is not consistent with any part of such plans or policies, it must include a secondary submittal to request a variance of such plans or policies.
4. The PUD shall be designed in such a manner as to protect the public health, welfare and safety of the residents of the neighborhood in which it is located.
5. The PUD must be of a complimentary nature and contain such uses that are necessary in the area of the proposed project.
6. Approval of a PUD cannot result in the violation of regulations within the Arkansas Fire Prevention Code or those issued by the Arkansas Department of Health. Approval of the PUD cannot result in the deviation of standard engineering practices nor have adverse effects to the drainage and/or water quality requirements of the City.

City Council Approval Process:

Planned Unit Developments represent zoning districts and must be approved by the City Council. However, the development shall be in accordance with the approved development plan. The Planning Commission must approve any contemplated deviation from the approved development plan. Upon approval by the Planning Commission, all recommendations shall be submitted to the Berryville City Council for their approval. The Berryville City Council shall have the authority to require reasonable plan changes to the PUD as a prerequisite to approval. Any dedication of streets or easements to the City must be included in the ordinance approving the PUD.

Amendment Procedure:

Following City Council approval, the Planning Commission may approve minor revisions to the site plan based upon the following criteria:

1. No changes are made to either the access or egress to the development.
2. Any changes to internal traffic arteries shall not alter overall traffic patterns, size of streets or functional classification of streets.
3. No new streets are proposed for dedication.
4. No new private streets are proposed.
5. Overall residential density is not increased.
6. Overall drainage patterns are not altered.
7. No additional loads are placed on municipal utilities.
8. Retail and/or office space is not increased by more than five percent.
9. No open space is dedicated for public maintenance.

CROSS REFERENCE: Ordinance 931; Section 10; June 5, 2012

Section 14.12.15 General Requirements of Residential Development

1. All residential dwelling units shall have the front door oriented towards the street.
2. All single-family residential dwelling units that do not have a built-in porch as part of the structure shall have a front landing accessible by stairs and handrails if necessary. The landing shall be at least six (6) feet by six (6) feet, and shall be oriented towards the street.
3. All portable storage freight containers are prohibited to be located within the following Residential Zone designations: R-1, R-2, R-3, R-4, R-O, RMH and MHP. Portable storage freight containers are typically defined as the all-metal sided containers used in the trucking and/or freight industry.

Exceptions: 1) Storage freight containers used for the purpose of moving from one physical location to another on a temporary basis or used for temporary storage of household items while a residential structure is under renovation/rehabilitation (i.e. PODS moving containers, etc.) shall be allowable by obtaining a permit from the City Inspector's Office. The permit shall be for thirty (30) consecutive calendar days and may be renewable for additional 30-day permits upon review of the City Inspector and the Berryville Planning Commission. Storage containers shall be immediately removed from the subject property upon the expiration of the latest permit approved for the site.

2) Job-site construction trailers located on residential project sites used during the construction of residential structures are hereby exempt from the provisions of this section and shall be allowable by obtaining a permit from the City Inspector's Office. The permit shall be on a calendar year basis and may be renewable for additional calendar year permits upon review of the City Inspector and the Berryville Planning Commission. Permits shall remain active contingent upon adequate construction activity being observed by the City Inspector within the previous ninety (90) consecutive calendar days. If adequate construction activity has not been observed within the previous ninety (90) consecutive calendar days, the permit shall be revoked, and the job-site construction trailer shall be removed immediately upon the permit's revocation.

CROSS REFERENCE: Ordinance 818; Section 4; November 18, 2003
Ordinance 1070; Section 1; April 7, 2020

CHAPTER 14.14

BULK AND AREA REGULATIONS

SECTIONS:

- 14.14.01 Area and Height Regulations**
- 14.14.02 Recreational Vehicle Park Development Standards**
- 14.14.03 Other Requirements**

Section 14.14.01 Area and Height Regulations

Except as provided in Section 14.14.03 of this chapter, the minimum area and height regulations shall be as follows:

R-1	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)			
			FRONT	REAR	SIDE	
Single Family Dwelling	60 feet	7,500 square ft.	30 ft. from BOC or street edge	20 ft.	single story house – 8 ft.	multi-story house – 10 ft.
					CORNER LOT	
BLDG HEIGHT:		Not to exceed 35 ft.		30 ft. from BOC or street edge		

R-2	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)			
			FRONT	REAR	SIDE	
Single Family Dwelling	60 feet	7,500 square ft.	30 ft. from BOC or street edge	20 ft.	single story house – 8 ft.	multi-story house – 10 ft.
					CORNER LOT	
BLDG HEIGHT:		Not to exceed 35 ft.		30 ft. from BOC or street edge		

Two Family Dwelling	80 feet	10,000 square ft.	30 ft. from BOC or street edge	20 ft.	single story structure – 8 ft.	multi-story structure – 10 ft.
					CORNER LOT	
BLDG HEIGHT:		Not to exceed 35 ft.		30 ft. from BOC or street edge		

R-3	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)			
			FRONT	REAR	SIDE	
Multi-Family Dwelling	80 feet	12,000 square ft. (3 units)	30 ft. from BOC or street edge	20 ft.	single story structure – 8 ft.	multi-story structure – 10 ft.
					CORNER LOT	
BLDG HEIGHT:		Not to exceed 35 ft.		30 ft. from BOC or street edge		

Each additional unit requires an additional 2,000 square feet of area.

R-4	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)		
Single Family Dwelling	40 feet	5,000 square ft.	FRONT	REAR	SIDE
			30 ft. from BOC or street edge	20 ft.	12 feet between structures
			CORNER LOT		
	BLDG HEIGHT:	Not to exceed 35 ft.			30 ft. from BOC or street edge

R-O	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)			
Residential-Office	60 feet	7,500 square ft.	FRONT	REAR	SIDE	
			30 ft. from BOC or street edge	20 ft.	single story structure – 8 ft.	multi-story structure – 10 ft.
			CORNER LOT			
	BLDG HEIGHT:	Not to exceed 35 ft.			30 ft. from BOC or street edge	

RMH	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)			
Residential Manufactured Housing	60 feet	6,000 square ft.	FRONT	REAR	SIDE	
			30 ft. from BOC or street edge	20 ft.	single story structure – 8 ft.	multi-story structure – 10 ft.
			CORNER LOT			
	BLDG HEIGHT:	Not to exceed 35 ft.			30 ft. from BOC or street edge	

MHP	LOT WIDTH	LOT AREA	YARD SETBACKS (feet)			
Manufactured Home Park	40 feet	4,000 square ft.	FRONT	REAR	SIDE	
			30 ft. from BOC or street edge	20 ft.	Distance between lots – 7.5 ft.	Distance between structures – 15 ft.
			CORNER LOT			
	BLDG HEIGHT:	Not to exceed 35 ft.			30 ft. from BOC or street edge	

Minimum total area of MHP District: 2 acres

Minimum setback from exterior boundary of park: 10 feet

C-1	YARD SETBACKS (feet)		
Central Business District	FRONT	REAR	SIDE
	No Requirement	No Requirement except on lot abutting residential zone	No Requirement
	BLDG HEIGHT:	Not to exceed 48 ft. or three (3) stories	

C-2	YARD SETBACKS (feet)		
Highway Commercial District	FRONT	REAR	SIDE
	40 feet	15 feet	15 feet
	BLDG HEIGHT:	Not to exceed 48 ft. or three (3) stories	

I-1	YARD SETBACKS (feet)		
Industrial District	FRONT	REAR	SIDE
	25 feet	No Requirement except on lot abutting residential zone	No Requirement
	BLDG HEIGHT:	Not to exceed 48 ft. or three (3) stories	

Section 14.14.02 Recreational Vehicle Park Development Standards

1. Minimum park area shall be one (1) acre.
2. Each site shall be a minimum of 1,500 square feet in area and 30 feet in width.
3. Building setbacks shall be in accordance with the setbacks required by the zoning district in which the RV Park is located.
4. Each site shall be set back from the side and rear boundary lines a minimum of 10 feet. RV's shall be separated from each other and from other structures by at least 15 feet.
5. Every RV park containing 20 sites or more, shall provide at least one service building equipped with one toilet, lavatory and shower for each sex for every 20 RV sites, or fractional part thereof.
6. Each RV, dependent vehicle and tent site shall be provided with an individual water-service connection.
7. A sanitary station shall be provided for every RV Park. RV parks containing more than 50 sites shall provide one sanitary station for every 50 sites, or fractional part thereof.
8. Each RV, dependent vehicle and tent site shall be provided with an electrical outlet supplying at least 115 volts.
9. The storage, collection and disposal of refuse in the park shall be so conducted as to create no health hazard, rodent harborage, insect breeding area, and accident or fire hazard.

Section 14.14.03 Other Requirements

The height and area regulations specified in Section 14.14.01 may be modified under certain special conditions or with respect to certain types of structures as specified below by the Zoning Board of Adjustment.

1. Side Yard: The required side yard shall be maintained on each side of a dwelling, but such side yard may be reduced to 10 percent of the lot width on lots of less than 50 feet.

The required side yard on the street side of a corner lot shall be the same as the required front yard on such street, except that the building width shall not be reduced to less than 32 feet, and no accessory building shall project beyond the required front yard on either street. For the purpose of side yard regulations, a

two-family dwelling, group house or multiple dwelling shall be considered as one building occupying one lot.

2. Rear Yard: The required rear yard may be reduced to 20 percent of the depth of the lot on any lot not exceeding 125 feet in depth.

An accessory building may be built within a required rear yard when located at least five feet from the rear lot line when occupying not more than 30 percent of the area of the area of such required rear yard. Open and uncovered swimming pools, home barbecue grills, and home incinerators may occupy a required rear yard, provided they are not located closer than five feet to the rear lot line nor closer than two feet to a side lot line.

3. All Yards: The ordinary projection of sills, belt courses, cornices, eaves, overhangs, and ornamental features shall not exceed 18 inches in any required yard.

A. The following regulations shall apply to all solid fences or walls (i.e. privacy fence, stone wall, brick wall, etc.) constructed within any residential or C-2 Highway Commercial zone designation:

A solid fence or wall not to exceed four (4) feet in height may project into or enclose any required front or side yard past the front building line of the main structure. Solid fences or walls constructed within required front yards shall be setback at least seven (7) feet from the street curb on regular lots.

Exception: If the main structure sets back farther than the required 25 feet front yard setback, a solid fence or wall not to exceed eight (8) feet in height may project into or enclose any required front or side yard past the front building line of the main structure, provided the fence or wall then meet the four (4) feet maximum height requirement for front yards within the required 25 feet setback area.

Solid fences or walls may project into the side and/or rear yard from the front building line of the main structure to the rear lot line, provided such fences or walls do not exceed a height of eight (8) feet. All corner lot fences must be approved by the Berryville Building Inspector prior to construction, in order to ensure adequate motor vehicle sight-clearance is provided at intersections.

B. Portable carports, as defined herein, may be constructed within any residential zone provided the applicable side and rear yard setbacks are met, and a ten (10) feet front yard setback is met on all regular lots. A 25 feet front and side yard setback, measured from the curb or pavement edge of each intersecting street, must be met prior to the construction of portable carports on corner lots, in order to ensure adequate sight-clearance for motor vehicles.

C. Where a lot or tract is used for commercial or industrial purposes, more than one main building may be located on the lot or tract, but only when such buildings conform to all setbacks for the district in which the lot or tract is located.

4. Height: Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus may be erected to any height not in conflict with any other ordinance of the City of Berryville.

Public, semi-public, or public service buildings, hospitals, institutions, churches and schools when permitted in a district, may be erected to exceed height limits specified for the district, provided all required yards are increased by one foot for each foot of building height above the specified height limit.

Other buildings may not be restricted as to height by following the procedure described in the "Conditional Use Regulations" chapter of this code.

5. Existing, Non-Conforming Lots: On any lot in a residential use zone which is identified on a plat of record at the time of passage of this ordinance, a single-family structure may be erected, even though the lot be of less area or width than required by the regulations of the residential zone in which the lot is located, provided all other area requirements are met.
6. Completion of Building in Progress: Nothing herein contained shall require any change in construction or designated use of a building actually under construction at the time of the adoption of this ordinance.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 834; Section 1; December 7, 2004
Ordinance 931; Section 12; June 5, 2012

CHAPTER 14.16

OFF-STREET PARKING REQUIREMENTS

SECTIONS:

14.16.01 Parking Requirements

Section 14.16.01 Parking Requirements

No building shall be erected, enlarged to the extent of increasing the floor area by as much as 50 percent, or change in use unless there is provided on the lot or tract of land used, space for the parking of automobiles or trucks in accordance with the following minimum requirements (**Exception: These requirements shall not apply within the C-1 Central Business District.**):

1. Parking space requirements.
 - A. Required number. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 14.16.01, provided that any fractional parking space is computed as a whole space. Where parking spaces are required for the physically disabled and/or handicapped, the number of spaces to be reserved is found in Table 14.16.02.
 - B. Combination of uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.
 - C. Location of lot. The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than 500 feet radially from the subject lot within the same or less-restrictive zoning district.
2. Parking stall dimensions.
 - A. Width. A minimum width of nine (9) feet shall be provided for each parking stall.
 - B. Length. A minimum length of twenty (20) feet shall be provided for each parking stall.

3. Stall accessibility. Each required parking stall shall be individually and easily accessible. Parking spaces for the physically handicapped shall be located as close as possible to elevators, ramps, walkways, and entrances. Further, no automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.

4. Striping. All paved parking stalls shall be striped. **(Exception: Any parking area used exclusively for residential purposes.)**

**TABLE 14.16.01
OFF-STREET PARKING SCHEDULE**

USE	NUMBER OF PARKING SPACES REQUIRED
Dwelling units	2/dwelling unit
Office	1/300 gross square feet
Retail	1/200 gross square feet
Restaurant	1/100 gross square feet
Health club	1/100 gross square feet
Warehouse	1/500 gross square feet
Assembly	1/300 gross square feet
Medical office	1/200 gross square feet
Schools	1/200 gross square feet plus 1/faculty member
Hotels/Motels	1/guest room plus 1/500 square ft of common area
Industry	1/each two (2) employees on the maximum work shift

**TABLE 14.16.02
HANDICAPPED PARKING SCHEDULE**

TOTAL NUMBER OF PARKING SPACES	HANDICAPPED PARKING REQUIRED
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of Total
Over 1,000	20, plus 1 for each 100 over 1,000

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002
Ordinance 931; Section 13; June 5, 2012

CHAPTER 14.18

CONDITIONAL USE REGULATIONS

SECTIONS:

14.18.01 Conditional Use Permit

14.18.02 Adult Uses

Section 14.18.01 Conditional Use Permit.

A Conditional Use Permit shall be obtained for certain uses which may be harmonious under special conditions and in specific locations within a zone, but shall not be allowed under the general conditions of the zone as stated in this code.

The City Council of Berryville, by special permit, after a public hearing before the Council and after study and report by the Planning Commission subject to such reasonable conditions and protective restrictions as are deemed necessary, may authorize a Conditional Use Permit.

1. **Conditional Use Review Criteria.** A request for a conditional use shall be permitted to be approved, approved with conditions or denied. No conditional use which has been approved shall begin operation until all requirements imposed by the Planning Commission have been met. Each request for a conditional use approval shall be consistent with the criteria listed below:
 - A. An approved written application for a conditional use shall be submitted to the Mayor's Office and shall contain information pertinent to the request.
 - B. The request is consistent with all applicable provisions of the comprehensive plan.
 - C. The request is compatible with the existing or allowable uses of adjacent properties.
 - D. The request can demonstrate adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
 - E. The request can demonstrate adequate provision for maintenance of the use and associated structures.
 - F. The request has minimized, to the degree possible, adverse effects on the natural environment.

- G. The request will not create undue traffic congestion.
 - H. The request will not adversely affect the public health, safety or welfare.
 - I. The request conforms to all applicable provisions of this code.
2. **Fee.** A filing fee (determined by fee schedule established by ordinance) must be submitted to the City Treasurer and a copy of the receipt submitted with the application for Conditional Use Permit. The applicant shall also be responsible for all other applicable costs to cover this procedure (i.e. publication costs). Under no condition shall said sum or part thereof be refunded for failure of said request to be adopted.
 3. **Notice of Public Hearings.** A notice of public hearing shall be published in a newspaper of general circulation in the city at least one time 15 days prior to the public hearing by the City Council. The adjacent property owners within 300 feet shall be notified by mail at least 10 days prior to the public hearings.
 4. **Re-petitions.** No petitions for a specific conditional use which was denied shall be reconsidered by the Planning Commission within 12 months from the date of final disapproval thereof, unless there is written evidence submitted to the Commission which justifies reconsideration.
 5. **Expiration and Revocation.** Any granted conditional-use permit shall become null and void within one year of the date of approval if not exercised. A conditional-use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. If such permit is abandoned or discontinued for a period of one year, it may not be reestablished unless authorized by the City Council.

A conditional-use permit may be revoked if the applicant fails to comply with the conditions imposed by the City Council.
 6. **Appeal.** Any person who is aggrieved by the decision of the Planning Commission shall have the right to appeal to the City Council by written request to the Mayor's Office within 30 days.

Section 14.18.02 Adult Uses

A conditional-use permit shall be obtained for all adult-use businesses.

Provisions.

1. No adult-use business shall be located within 1,000 feet of a park, school, day-care center, library, or religious or cultural activity.
2. No adult-use business shall be located within 500 feet of any other adult-use business or any residential zone boundary.
3. Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.
4. Said businesses shall be located in I-1 Industrial zones and shall not be permitted as a home occupation.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

CHAPTER 14.20

NON-CONFORMING USE REGULATIONS

SECTIONS:

14.20.01 Non-Conforming Use Regulations

Section 14.20.01 Non-Conforming Use Regulations.

1. The lawful use of a building existing at the time of adoption of this Ordinance or of a change in the district classification may be continued even though such use does not conform with the provisions thereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification, but whenever a non-conforming use is changed to a more restricted use or to a conforming use, it shall not thereafter be changed to a less restricted use.
2. The non-conforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed therefore prior to adoption of this Ordinance.
3. No building which has been damaged by any extent of more than 50 percent of its reproduction value shall be restored except in conformity with the district regulations.
4. In the event that the non-conforming use of a building or premises is discontinued for a period of 6 months or more, such building or premises shall thereafter be used only in conformity with the regulations of the district in which it is located.
5. The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use, and the existence of a non-conforming use on a part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.
6. Whether a non-conforming use exists shall be a question of fact and shall be decided by the Board of Zoning Adjustment after public notice and hearing in accordance with the rules of the Board.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

CHAPTER 14.22

ADMINISTRATION OF ZONING REGULATIONS

SECTIONS:

- 14.22.01 Administration of Regulations**
- 14.22.02 Board of Zoning Adjustment**
- 14.22.03 Petition for Rezoning Procedure**

Section 14.22.01 Administration of Regulations

1. It shall be the duty of the person designated by the Mayor as Building Official to administer and enforce the regulations contained herein.
2. No construction or reconstruction shall be undertaken without a building permit as required by this section. Application for a building permit shall be accompanied by a lot plat in duplicate, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon as shown by a survey, the size, shape, and location of the structure to be erected and such other information as may be necessary for the enforcement of this chapter. The applicant will be responsible for paying all applicable permit fees. If construction is done without a permit or notification of the Building Official, the required permit fee will then be doubled. A record of applications and lot plats shall be kept in the office of the Building Official.
3. No structural alteration or modification of a manufactured home after it is placed on site shall be undertaken without a building permit as required by this section.

Section 14.22.02 Board of Zoning Adjustment.

1. The Board of Zoning Adjustment shall consist of the Planning Commission as a whole and the Chairman of the one shall likewise be the Chairman of the other.
2. The Board of Zoning Adjustment shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions. Each session of the Board of Zoning Adjustment shall be a public meeting with public notice of said meeting and business to be carried on, published in a newspaper of general circulation in the city, at least one time seven days prior to the meeting.
3. An appeal may be taken to the Board of Zoning Adjustment by any person, group or organization, public or private, affected by a decision of the Building Official.

Such appeal shall be taken within such time as prescribed by the Board by general rule, by filing with the Building Official and with the Board a notice of appeal, specifying the ground thereof.

4. The Board of Zoning Adjustment shall have the following powers:
 - A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Official in the enforcement of this chapter and may affirm or reverse, in whole or part, said decision of the enforcement officer.
 - B. To hear and decide requests for variances from the literal provisions of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.
 - C. To hold public hearings on, and decide the following exceptions to or variations of this chapter:
 - a) To permit the extension of a district where the boundary line thereof divides a lot held in a single ownership at the time of adoption of this chapter.
 - b) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map where the street layout on the ground varies from the street layout as shown on this map.
 - c) Classify commercial or industrial uses which are likely to create hazards and review the locations of proposed industrial uses, as provided in this title.
 - d) Vary the yard regulations where there is an exceptional or unusual physical condition of a lot, not generally prevalent in the neighborhood, which condition when related to the yard regulations of this chapter would prevent a reasonable or sensible arrangement of buildings on the lot.
 - e) Vary the parking regulations by not more than 50 percent where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this chapter.

5. Before any action shall be taken as provided in this section, any private party or parties requesting an appeal or variance shall deposit with the City Treasurer a filing fee (determined by fee schedule established by ordinance) plus all applicable costs to cover this procedure, and under no condition shall said costs or part thereof be refunded for failure of said change to be adopted by the Board of Zoning Adjustment.
6. Decisions of the Board in respect to the above shall be subject to appeal to the Circuit Court of Carroll County.

Section 14.22.03 Petition for Rezoning Procedure

1. **Application.** A request to use property in a manner which is not permitted under the current zoning regulations must be submitted by the property owner or their legally designated agent. The request must be submitted in the form of an approved petition for rezoning application to the Board of Zoning Adjustment. Applications are available in the Mayor's Office.
2. **Fee.** A filing fee (determined by fee schedule established by ordinance) must be submitted to the City Treasurer and a copy of the receipt submitted with the petition for rezoning. The applicant shall also be responsible for all other applicable costs to cover this procedure (i.e. publication costs). Under no condition shall said sum or part thereof be refunded for failure of said request to be adopted.
3. **Public Hearing.** The Board of Zoning Adjustment will review the petition and, if all required information has been included, will set the date for a public hearing. Notice of the public hearing must be published at least one time 15 days prior to the hearing in a newspaper of general circulation in the city. Notice of the public hearing will also be mailed to adjacent property owners within 300 feet of the property to be rezoned.
4. **Action by the Board of Zoning Adjustment.** The Board shall hear the petitioner's request for rezoning at the public hearing and shall consider the petitioner's purposes for the rezoning request as well as public comments. Following the public hearing, the Board may vote to recommend that the City Council approve the proposed rezoning or may vote to deny the rezoning request.
5. **Action by the City Council.** Based upon the Board's certified recommendation and other consideration, the City Council may adopt an ordinance approving the proposed zoning change. Following adoption by the City Council, the adopted ordinance shall be filed in the office of the City Clerk.
6. **Appeal.** Any person who is aggrieved by the decision of the Board of Zoning Adjustment in respect to the above shall have the right to appeal to the City Council by written request to the Mayor's Office within 30 days.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

CHAPTER 14.24

AMENDMENT PROCEDURE

SECTIONS:

14.24.01 Amendment Procedure

Section 14.24.01 Amendment Procedure

The City Council may, when deemed necessary, amend this ordinance through the following procedure:

1. The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least one time 15 days prior to the hearing.
2. Following the public hearing, the proposed amendment may be recommended as presented or in modified form by a majority vote of the entire Planning Commission.
3. Following its adoption of a recommendation, the Planning Commission shall certify such recommended amendment to the City Council for its adoption.
4. The City Council may return the proposed amendment to the Planning Commission for further study or recertification, or by majority vote of the entire membership, may by ordinance, adopt the recommended amendment submitted by the Planning Commission. However, nothing in this ordinance shall be construed to limit the City Council's authority to recall the said amending ordinance by a vote of a majority of the City Council.
5. Following adoption by the City Council, the adopted amending ordinance shall be filed in the office of the City Clerk.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

CHAPTER 14.26

PENALTY FOR VIOLATIONS

SECTIONS:

14.26.01 Penalty for Violations

Section 14.26.01 Penalty for Violations

1. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for each offense. Each day that such violation continues shall constitute a separate offense.
2. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the appropriate authorities of the City, in addition to other remedies, may institute appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002

CHAPTER 14.28

ZONING REGULATIONS ADOPTED AND AMENDED

SECTIONS:

- 14.28.01 Adoption of the Original Berryville Zoning Regulations**
- 14.28.02 Adoption of the Current Zoning Regulations**

Section 14.28.01 Adoption of the Original Berryville Zoning Regulations.

The original zoning regulations for the City of Berryville, Arkansas were prepared by the Berryville Planning & Zoning Commission and adopted by it on May 6, 1974, after public hearing held May 6, 1974. The regulations were then reviewed and adopted by the city council after the first reading of Ordinance No. 264, which contained an emergency clause, on May 21, 1974. Three copies of the aforementioned regulations are on file in the office of the Berryville Building Inspector and are available for public inspection.

Section 14.28.02 Adoption of the Current Subdivision Regulations.

After extensive revision of the original zoning regulations, the Berryville Planning & Zoning Commission adopted the current zoning regulations on November 13, 2001, after public hearing held on November 13, 2001. These regulations were then reviewed and adopted by the city council after the third reading of Ordinance No. 787 on February 19, 2002. Three copies of the current zoning regulations are on file in the office of the Berryville Building Inspector and are available for public inspection.

CROSS REFERENCE: Ordinance 787; Section 1; February 19, 2002