

ORDINANCE NO. 1329-2021

AN ORDINANCE AMENENDING THE ZONING ORDINANCES OF THE CITY OF TAHLEQUAH, OKLAHOMA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA, THAT CHAPTER 1 – BOARDS AND COMMISSIONS (INCLUDING CHAPTER 1A – PLANNING COMMISSION AND CHAPTER 1B – BOARD OF ADJUSTMENT), CHAPTER 2 – ZONING, GENERAL AND DISTRICT PROVISIONS, CHAPTER 3 – ZONING, ADDITIONAL REGULATIONS, CHAPTER 6 FACTORY BUILT STRUCTURES AND TRAVEL TRAILER REGULATIONS, CHAPTER 9 – HISTORIC PRESERVATION ZONING, CHAPTER 9 – SIGN REGULATIONS, CHAPTER 11 – CELL AND WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS, CHAPTER 13 – SEXUALLY ORIENTED BUSINESS, AND CHAPTER 14 – COMMERCIAL LANDSCAPING REGULATIONS, ALL OF PART 12– PLANNING, ZONING, AND DEVELOPMENT OF THE CODE OF ORDINANCES OF THE CITY OF TAHLEQUAH, OKLAHOMA AND THE OFFICIAL ZONING MAP OF THE CITY OF TAHLEQUAH, OKLAHOMA ARE HEREBY AMENDED, REPEALED AND REPLACED BY THE ATTACHED CHAPTER 1 OF PART 12 ENTITLED “CITY OF TAHLEQUAH ZONING ORDINANCE” (COMPOSED OF 11 ARTICLES) AND UPDATED OFFICIAL ZONING MAP.

PASSED and APPROVED this 16th day of August, 2022.

THE CITY OF TAHLEQUAH, OKLAHOMA
A MUNICIPAL CORPORATION.

BY: 
MAYOR: Sue Catron

ATTEST:


CITY CLERK: Whitney Shaw



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Approved as to form and legality:


CITY ATTORNEY: Grant Lloyd



CITY OF
TAHLEQUAH
OKLAHOMA

City of Tahlequah

Zoning Ordinance

Adopted August 16, 2022

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ARTICLE 1
INTRODUCTORY PROVISIONS

ARTICLE 1
INTRODUCTORY PROVISIONS

Section 1.1 Adoption and Citation

This Ordinance, pursuant to the authority granted by 11 Oklahoma Statutes Section 43-101 et seq., shall be a part of the master plan for the City and shall be known as the “City of Tahlequah Zoning Ordinance” and may be cited as such and is referred to herein as “these zoning regulations,” “these regulations,” or “this Ordinance.”

Section 1.2 Purpose and Necessity

The regulations contained herein are necessary to encourage the most appropriate uses of land; to maintain and stabilize the value of property; to reduce fire hazards and improve public safety and safeguard the public health; to decrease traffic congestion and its accompanying hazards; to prevent undue concentration of population; and to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities. In interpreting and applying the provision of this Ordinance they shall be necessary for the promotion of the public health, safety, comfort, convenience and general welfare.

Section 1.3 Nature of Zoning Plan

This Ordinance classifies and regulates the use of land, buildings, and structures within the limits of the City, as hereinafter set forth. The regulations contained herein divide the City in zones and regulates therein the use of the land the use of buildings and the size of building as to height and number of stories, coverage of the land by buildings, the size of yards and open spaces, the location of buildings, and density of population.

Section 1.4 Regulation of Use, Height, Area, Yards and Open Spaces

Except as hereinafter otherwise provided, no land shall be used and no building, structure, or improvement shall be constructed, moved, altered, enlarged, or rebuilt which is designed, arranged or intended to be used or maintained for any purpose or in any manner except in accordance with the requirements established in the district in which such land, building, structure, or improvements are located, and in accordance with the provisions of the sections contained herein related to any or all districts.

Section 1.5 Invalidity and Repeal

A. Invalidity of a Part

In case any portion of these regulations shall be held to be invalid or unconstitutional, the remainder of these regulations shall not thereby be invalid, but shall remain in force.

B. Repeal of Conflicting Regulations

All regulations, ordinances, orders, resolutions, or parts thereof in conflict with these zoning regulations, or inconsistent therewith, are hereby repealed to the extent necessary to give these regulations full force and effect.

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS


ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Section 2.1 Districts Established and Defined; Zoning Map

Article 2 establishes zoning districts and contains descriptions and definitions for each district. The Article also establishes and identifies the uses allowed within each district and bulk and area requirements that apply to development in the districts respectively.

A. Zoning Districts Established

The following zoning districts are hereby established.

| Table 2.1.A: Zoning Districts Established | | | |
|---|--------------|-------------------------------|--|
| DISTRICT TYPE | ABBREVIATION | DISTRICT NAME | Zoning Intensity |
| Residential | AG | Agriculture | Lowest Zoning Intensity Level |
| | RE | Residential Estate |  |
| | RS-1 | Single Family Low Density | |
| | RS-2 | Single Family Medium Density | |
| | RS-3 | Single Family High Density | |
| | RM-1 | Multi-Family Low Density | |
| | RM-2 | Multi-Family Medium Density | |
| | RM-3 | Multi-Family High Density | |
| | RMH | Mobile Home Park | |
| Mixed-Use | DMX | Downtown Mixed-Use | |
| | LMX | Local Mixed-Use | |
| | CMX | Community Mixed-Use | |
| Commercial & Industrial | O-1 | Office Low Intensity | |
| | O-2 | Office High Intensity | |
| | C-1 | Local Commercial | |
| | C-2 | Community Commercial | |
| | C-3 | Regional Commercial | |
| | I-1 | Industrial Light | |
| | I-2 | Industrial Moderate | |
| | I-3 | Industrial Heavy | Highest Zoning Intensity Level |
| Special Purpose & Overlays | P | Public | |
| | HP | Historic Preservation Overlay | |
| | DO | Downing Overlay | |
| | PUD | Planned Unit Development | |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

B. Zoning Map

1. The zoning districts are shown on the City of Tahlequah "Official Zoning Map." The boundaries of the Zoning Map are adopted as a part of this Ordinance. Procedures for zoning map amendments can be found in Section 7.4.D.
2. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the City Council. No amendments to the Official Zoning Map shall become effective until such change has been made on the map.
3. Regardless of the existence of purported copies of the Official Zoning Map, may from time to time be published, the Official Zoning Map, which shall be located in the office of the City Clerk, shall be the final authority as to the current status of land and water areas, buildings, and other structures in the City.

C. Interpretation of District Boundaries

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

1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way shall be construed to be such boundaries;
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries;
3. Where district boundaries are so indicated that they are approximately parallel to the centerlines of street lines of streets or centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such scaled distance therefrom as indicated on the Official Zoning Map; and
4. Where the boundary of a district line follows a railroad line such boundary shall be deemed to be located on the easement line to which it is closest, which shall completely include or exclude the railroad easement unless otherwise designated.

D. Classification of Annexed Areas

1. All new annexations of land to the City of Tahlequah shall be in the RS-2 residential zoning district unless otherwise classified by City Council for a period of time not to exceed one (1) year from the effective date of the ordinance annexing the territory.
2. Within the one (1) year period of time the City Council shall instruct the Planning Commission to study and make recommendations concerning the use of land within the annexation to promote the general welfare in accordance with the Comprehensive Plan, and upon receipt of such recommendations the City Council shall, after public hearings as required by law, establish the district classification of the annexation. Provided, however, this Section shall not be construed as preventing the City Council from holding public hearings prior to annexation and establishing the district classification at the time of the annexation.

E. Effect of Vacated Easements and Right-of-Ways

Whenever any street, alley, or other public easement is vacated the district classification of the property to which the vacated portions of and accrue shall become the classification of the vacated land.

F. Relationship to Special Purpose or Overlay Districts

All lands within the City shall be designated as one of the base zoning districts listed in Section 2.1.A. In addition, some lands may be designated as one or more of the overlay districts listed in Section 2.1.A and Article 5. Where property is designated as an overlay district as well as a base zoning district, the regulations governing development in the overlay district shall apply in

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

addition to the regulations governing development in the underlying base district. In the event of an express conflict between the two (2) sets of standards, the standards for the overlay district shall control.

Section 2.2 District Descriptions

A. **Agriculture District**

The agriculture district is intended to provide areas primarily for agriculture and related uses. The Agriculture District is intended primarily for areas which are likely to remain in agriculture use for the foreseeable future. It is the purpose of this district to protect agricultural and other permitted uses from unplanned and premature, scattered, urban type development, pending proper timing for the providing of major streets and highways, utilities, and other public or quasi-public facilities.

B. **Residential Districts**

The Residential Districts are designed to:

1. Protect the residential character of areas so designated by excluding therefrom principal commercial and industrial activities.
2. Preserve openness of the living areas and to avoid overcrowding by required certain minimum yards, open spaces, and site areas, and maximum bulk of structures;
3. Make available areas suitable for a variety of dwelling types and densities to permit a wide range of individual choice;
4. Assure the provision of adequate off-street parking space to provide the parking needs of the permitted uses;
5. Protect residential areas against hazardous, offensive, or objectionable influences; and
6. Protect residential areas from heavy traffic and against through traffic of all kinds.

C. **Non Residential Districts**

1. *Downtown Mixed-Use (DMX)*

The DMX district is intended to provide for and encourage development and redevelopment that preserves and enhances the unique character and vitality of the Tahlequah downtown. Small-scale offices, retail, and upper story residential uses are allowed. Development standards focus on creating a human-scaled and pedestrian oriented downtown that invites commercial development and complementary residential opportunities. Continuous retail frontage, largely uninterrupted by driveways and parking are encouraged.

2. *Local Mixed-Use (LMX)*

The LMX district is intended to provide for small, compact commercial centers within or surrounded by residential areas, compatible in scale and character with the surrounding residential uses, to serve the convenience needs of the immediately surrounding neighborhood. LMX centers shall be one (1) acre in size or more. Ground-floor small-scale retail is required and upper-story residential and office uses are encourage. Continuous retail frontages, largely uninterrupted by driveways and parking, are encouraged.

3. *Community Mixed-Use (CMX)*

The CMX district is intended to provide for community-serving mixed use development at a higher scale and scope of the LMX district. CMX centers are encouraged to be located at significant nodes of the community on sites of two (2) acres or more. The CM district provides mixed-use development that include commercial, institutional, and high-density residential that supports the entire community. Development should facilitate pedestrian connections between residential and nonresidential uses.

4. *Office Low Intensity and High Intensity (O-1 & O-2)*

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

The office districts are intended primarily to facilitate the locating of professional and business offices and uses compatible therewith in close proximity to residential areas, especially in the vicinity of hospitals, and to protect and maintain existing development of this type.

5. *Local Commercial (C-1)*

The C-1 district is designed to provide for local shopping and include a wide range of convenience goods and personal service establishments which cater to frequently recurring needs. The district regulations are designed to promote convenient shopping and the stability of retail development by encouraging continuous retail frontage and excluding community and regional service establishment which tend to break such continuity and to limit the uses or characteristics of operation which encourage traffic from outside the immediate neighborhood.

6. *Community Commercial (C-2)*

The C-2 district is intended to provide for a full range of community oriented retail and service commercial uses.

7. *Regional Commercial (C-3)*

The C-3 district is designed to provide for certain high intensity commercial activity which need a central location, but which either do not require a location in the core of a central business district, or are not compatible with the principal uses of the core. This district is intended primarily for uses that provide commercial goods and services to residents of the community in areas that are dependent on automobile access and exposed to heavy automobile traffic. These commercial uses are subject to frequent view by the public and visitors to Tahlequah, and they should provide an attractive appearance with landscaping, sufficient parking and controlled traffic movement.

8. *Industrial Light (I-1)*

The I-1 district is intended primarily for production and assembly plants that are conducted so noise, dust, and glare of each operation is completely confined within an enclosed building. These industries may require direct access to rail, air or street transportation routes; however, the size and volume of raw materials and finished products involved should not produce the volume of freight generation by the uses in moderate and heavy industrial districts. Buildings in this district should be architecturally attractive and surrounded by landscaped yards.

9. *Industrial Moderate (I-2)*

The I-2 district is intended primarily for the conduct of light manufacturing, assembling and fabrication and for warehousing, wholesale, and service uses. These do not depend primarily on frequent personal visits of customers or clients, but may require good accessibility to major rail, air, and street transportation routes.

10. *Industrial Heavy (I-3)*

The I-3 is designed primarily to include a range of industrial uses which may be hazardous influences or moderately to substantially objectionable influences on other classes of uses.

11. *Public (P)*

The P district is intended to provide for the development of public and quasi-public uses, including but not limited to government buildings, institutional uses, public parks, open spaces, and airports. The district is also intended to protect such uses from encroachment by incompatible uses, and to mitigate any adverse effects of such public facilities and institutions on adjacent land uses.

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Section 2.3 Table of Allowed Uses

Table 2.3 lists the principle, accessory, and temporary uses allowed within all zoning districts

A. Explanation of Table Abbreviations

1. *Permitted Uses*

Where a “P” appears in the column of a district, the use offset opposite of the “P” is permitted as a use by right in that district. Permitted uses are subject to all other applicable regulations of this Ordinance, including Supplemental Regulations and Development Standards.

2. *Special Exception Uses*

Where an “S” appears, the use is permitted subject to the granting of a special exception by the Board of Adjustment. Permitted uses are subject to all other applicable regulations of this Ordinance, including Supplemental Regulations and Development Standards. An “S” designation does not constitute an authorization or an assurance that such use will be permitted. Rather, each special exception application shall be evaluated as to its probable effect on adjacent properties and surrounding areas, and may be approved, approved with conditions, or denied as the findings indicate appropriate. For procedures for special exceptions see Section 7.7.B.

3. *Prohibited Uses*

Where a “ ” appears in the column of a district, the use offset opposite the “ ” is prohibited in the respective zoning District.

B. Classification of New and Unlisted Uses

In the event a question as to the meaning of permitted uses, reference shall be made to the Use Definitions section in Article 11. In the event an applicant proposes a new or unlisted use the Director shall make a determination as to which such use shall be placed. In making such determination, the Director shall consider potential impacts, including but not limited to: the general nature of the use; sales; processing; type of product; enclosed or open storage; anticipated employment; transportation needs; requirements for utilities; and amount of noise, odors, fumes, or dust generated by the use. Decisions made by the Director may be appealed to the Board of Adjustment following the procedures in Section 7.7.A.

C. Transitional Period Established for Continued Cascading Zoning

Where a higher intensity zoning district is established for a particular property the uses allowed in the lesser intensive zoning districts shall be allowed as a permitted use. The intensity level of zoning districts shall be established as provided in Table 2.1.A. This provisions shall expire on December 31, 2025.

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Table 2.3: Table of Allowed Uses

| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | | Supplemental Regulations | |
|---|------------------|----|----|---|---|----|---|---|----|----------------|-----|-----|---|---|---|---|---|---|-----|--------------------------|---|
| | Residential | | | | | | | | | Nonresidential | | | | | | | | | | | |
| | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | I | | | P |
| 1 | | | 2 | 3 | 1 | 2 | 3 | 1 | | | | | 2 | 1 | 2 | 3 | 1 | 2 | 3 | | |
| ACCESSORY USES | | | | | | | | | | | | | | | | | | | | | |
| See Supplemental Regulations Section 3.2 | | | | | | | | | | | | | | | | | | | 3.2 | | |
| TEMPORARY USES | | | | | | | | | | | | | | | | | | | | | |
| See Supplemental Regulations Section 3.3 | | | | | | | | | | | | | | | | | | | 3.3 | | |
| RESIDENTIAL USES | | | | | | | | | | | | | | | | | | | | | |
| Household Units | | | | | | | | | | | | | | | | | | | | | |
| Detached single family dwelling | P | P | P | P | P | P | P | P | | | S | S | | | | | | | | | |
| Two-family dwelling | | | | | | P | P | P | | | P | P | | | | | | | | | |
| Multi-family dwelling | | | | | | P | P | P | | P | P | P | | | | | | | | | |
| Townhouse development | | | | | | P | P | P | | P | P | P | | | | | | | | 3.4 | |
| Dwelling group | | | | | | P | P | P | | S | P | P | | | | | | | | 3.5 | |
| Modular Home | P | P | P | P | P | | | | | | | | | | | | | | | 3.7 | |
| Mobile home | | | | | | | | | P | | | | | | | | | | | 3.6 | |
| Group Quarters | | | | | | | | | | | | | | | | | | | | | |
| Boarding, dormitory, and rooming house | | | | | | P | P | P | | S | P | P | | S | P | P | | | | P | |
| Convalescent home, nursing home, or assisted living facility | | | | | | P | P | P | | | S | P | | S | P | P | | | | | |
| Fraternity or Sorority | | | | | | P | P | P | | | P | P | | | | | | | | | |
| Group Home | | | | | | P | P | P | | | P | P | | S | P | P | | | | | |
| Transitional living center, re-entry facility, or homeless center | | | | | | | | P | | | S | P | | S | P | P | | | | | |
| Mobile Home Park | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | P | | | | | | | | | | | | |
| PUBLIC/INSTITUTIONAL USES | | | | | | | | | | | | | | | | | | | | | |
| Airport | | | | | | | | | | | | | | | | | S | S | S | S | P |
| Art Gallery or Museum | | | | | | | | | | P | P | P | P | P | P | P | | | | | P |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

| Table 2.3: Table of Allowed Uses | | | | | | | | | | | | | | | | | | | | | | |
|---|--------------------|-------------|----|----|----|---|---|----|---|----------------|----|-----|-----|-----|---|---|---|---|---|---|--------------------------|------|
| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | | | Supplemental Regulations | |
| | Subcategory | Residential | | | | | | | | Nonresidential | | | | | | | | | | | | |
| | | Use Type | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | I | | |
| 1 | 2 | | | | 3 | 1 | 2 | 3 | 1 | 2 | | | | | 1 | 2 | 3 | 1 | 2 | 3 | | |
| PUBLIC/INSTITUTIONAL USES | | | | | | | | | | | | | | | | | | | | | | |
| Community Services | | | | | | | | | | | | | | | | | | | | | | |
| Cemetery | | S | S | S | S | S | S | S | | | | | | | | | S | S | S | S | P | 3.16 |
| Crematorium | | | | | | | | | | | | | | | | | S | S | S | S | | |
| Detention Correctional Facility | | | | | | | | | | S | P | P | S | S | P | P | P | P | P | P | P | |
| Government administration and civic buildings | | S | S | S | S | S | S | S | | P | P | P | P | P | P | P | P | P | P | P | P | 3.16 |
| Places of assembly | | S | S | S | S | S | S | S | | S | S | P | S | S | P | P | P | | | | | 3.16 |
| Safety Service | | S | S | S | S | S | S | S | | P | P | P | P | P | P | P | P | P | P | P | P | 3.16 |
| Child Care Facilities | | | | | | | | | | | | | | | | | | | | | | |
| Child care center | | | | | | | | | | S | P | P | S | S | P | P | P | | | | | |
| Day care center or nursery school | | | S | S | S | S | S | S | | S | P | P | S | P | P | P | P | | | | | 3.16 |
| Home day care | | | S | S | S | S | S | S | | | | | | | | | | | | | | 3.16 |
| Education | | | | | | | | | | | | | | | | | | | | | | |
| College or university | | | S | S | S | S | S | S | | S | P | P | S | S | S | P | P | | | | P | 3.16 |
| Elementary | | | P | P | P | P | P | P | | S | S | P | S | S | P | P | P | | | | P | 3.16 |
| Middle school or high school | | | P | P | P | P | P | P | | S | S | P | S | S | P | P | P | | | | P | 3.16 |
| Trade school | | | | | | | | | | S | S | P | | | S | P | P | | P | P | P | |
| Hospital | | S | S | S | S | S | S | S | | | S | P | | | | P | P | | | | P | 3.16 |
| Library | | S | S | S | S | S | S | S | | P | P | P | P | P | P | P | P | | | | P | 3.16 |
| Parks and Open Space | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 3.16 |
| Utilities and Public Service Facility | | | | | | | | | | | | | | | | | | | | | | |
| Minor | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 3.17 |
| Major | | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | P | P | P | P | P | 3.17 |
| Wireless Communication Facility | | | | | | | | | | | | | | | | | | | | | | |
| Freestanding tower | | | | | | | | | | | | | | | | S | P | P | P | P | P | 3.8 |
| Building or tower-mounted antenna | | | | | | | | | | S | P | P | P | P | P | P | P | P | P | P | P | |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Table 2.3: Table of Allowed Uses

| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | | Supplemental Regulations | | | | |
|---|------------------|----|----|---|---|----|---|---|----|----------------|-----|-----|---|---|---|---|---|---|---|--------------------------|---|---|------------|-----|
| | Residential | | | | | | | | | Nonresidential | | | | | | | | | P | | | | | |
| | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | I | | | | | | |
| 1 | | | 2 | 3 | 1 | 2 | 3 | 1 | | | | | 2 | 1 | 2 | 3 | 1 | 2 | 3 | | | | | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Service | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal training | | | | | | | | | | | | | | | | | S | P | P | P | P | | 3.9 | |
| Boarding or shelter | | | | | | | | | | | | | | | | | S | P | P | P | P | P | | 3.9 |
| Grooming | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | | | 3.9 | |
| Veterinary, small | | | | | | | | | | | P | P | S | S | P | P | P | P | P | | | | 3.9 | |
| Veterinary, large animal | | | | | | | | | | | | | | | | | P | P | P | P | | | 3.9 | |
| Broadcast or Recording Studio | | | | | | | | | | P | P | P | P | P | P | P | | | | | | | | |
| Financial Services | | | | | | | | | | | | | | | | | | | | | | | | |
| Financial Institution, with drive-thru | | | | | | | | | | S | P | P | S | S | P | P | P | | | | | | | |
| Financial Institution, without drive-thru | | | | | | | | | | P | P | P | P | P | P | P | | | | | | | | |
| Food and Beverage Services | | | | | | | | | | | | | | | | | | | | | | | | |
| Bar/nightclub | | | | | | | | | | P | P | P | | | P | P | P | | | | | | | |
| Bakery, retail | | | | | | | | | | P | P | P | | | P | P | P | | | | | | | |
| Brewpub | | | | | | | | | | P | P | P | | | P | P | P | | | | | | | |
| Community Food and Farmer’s Market | | | | | | | | | | P | P | P | | | P | P | P | | | | | P | | |
| Mobile Food Vendors | | | | | | | | | | P | P | P | | | P | P | P | P | P | P | P | | 3.21 | |
| Restaurant, with drive-thru | | | | | | | | | | S | P | P | | | P | P | P | | | | | | | |
| Restaurant, without drive-thru | | | | | | | | | | P | P | P | | | P | P | P | | | | | | | |
| Lodging | | | | | | | | | | | | | | | | | | | | | | | | |
| Bed & breakfast | | S | S | S | S | S | S | S | | S | | | | | P | P | | | | | | | 3.10; 3.16 | |
| Campgrounds and RV parks | | | | | | | | | | | | | | | | | P | | | | | | 3.11 | |
| Hotel or motel | | | | | | | | | | P | P | P | | | P | P | P | | | | | | | |
| Office | | | | | | | | | | | | | | | | | | | | | | | | |
| Business or professional | | | | | | | | | | P | P | P | P | P | P | P | P | | | | | | | |
| Medical, practitioner office, or clinic | | | | | | | | | | P | P | P | P | P | P | P | P | | | | | | | |
| Research | | | | | | | | | | P | P | P | P | P | P | P | P | | | | | | | |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Table 2.3: Table of Allowed Uses

| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | | Supplemental Regulations | | | |
|--|------------------|----|----|---|---|----|---|---|----|----------------|-----|-----|---|---|---|---|---|---|---|--------------------------|------|------|------|
| | Residential | | | | | | | | | Nonresidential | | | | | | | | | P | | | | |
| | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | I | | | | | |
| 1 | | | 2 | 3 | 1 | 2 | 3 | 1 | | | | | 2 | 1 | 2 | 3 | 1 | 2 | 3 | | | | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | | | | | | |
| Recreation and Entertainment, Outdoor | | | | | | | | | | | | | | | | | | | | | | | |
| Amphitheater | | | S | S | S | S | S | S | | | S | P | P | | | P | P | P | | P | 3.16 | | |
| General outdoor recreation | | | | | | | | | | | | | | | | | P | P | P | P | P | | |
| Golf course or driving range, lighted | | | | | | | | | | | | | | | | | P | S | S | S | P | | |
| Golf course or driving range, unlighted | | | S | S | S | S | S | S | | | | | | | | P | P | P | P | P | P | 3.16 | |
| Major entertainment facility | | | | | | | | | | | | | | | | | P | P | P | P | P | | |
| Marina | | | | | | | | | | | | | | | | | P | | | | P | | |
| Race track (auto, dog, horse) | | | | | | | | | | | | | | | | | | | S | S | S | | |
| Zoo | | | | | | | | | | | | | | | | | P | P | P | P | | | |
| Recreation and Entertainment, Indoor | | | | | | | | | | | | | | | | | | | | | | | |
| Fitness and recreational sports center | | | S | S | S | S | S | S | | | P | P | P | | | P | P | P | S | S | S | P | 3.16 |
| General indoor recreation | | | S | S | S | S | S | S | | | P | P | P | | | P | P | P | S | S | S | | 3.16 |
| Major entertainment facility | | | | | | | | | | | | | | | | | S | P | S | S | S | | |
| Movie theater | | | | | | | | | | | S | S | S | | | | P | P | | | S | | |
| Parking, non-accessory | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | 3.12 | |
| Personal Services | | | | | | | | | | | | | | | | | | | | | | | |
| Dry cleaning and laundry service | | | | | | | | | | | S | P | P | | | P | P | P | | | | | |
| Funeral and mortuary service | | | | | | | | | | | S | P | P | | | P | P | P | | | | | |
| General personal services | | | | | | | | | | | P | P | P | P | P | P | P | P | | | | | |
| Pharmacy or drugstore with drive-thru | | | | | | | | | | | S | P | P | S | S | P | P | P | | | | | |
| Pharmacy or drugstore without drive-thru | | | | | | | | | | | P | P | P | P | P | P | P | P | | | | | |
| Studio, artist, or instructional service | | | | | | | | | | | P | P | P | P | P | P | P | P | | | | | |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

| Table 2.3: Table of Allowed Uses | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|-------------|----|----|----|---|---|----|---|---|----------------|-----|-----|-----|---|---|---|---|--------------------------|---|---|---|---|------|
| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | Supplemental Regulations | | | | | |
| | Subcategory | Residential | | | | | | | | | Nonresidential | | | | | | | | | | | | | |
| | | Use Type | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | I | | | P | |
| 1 | 2 | | | | 3 | 1 | 2 | 3 | 1 | 2 | | | | | 1 | 2 | 3 | 1 | 2 | 3 | | | | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | | | | | | | |
| Retail Sales | | | | | | | | | | | | | | | | | | | | | | | | |
| | Alcoholic beverages, retail sales | | | | | | | | | | | P | P | P | | | P | P | P | | | | | |
| | Building supplies and equipment | | | | | | | | | | | | | | | | | P | P | P | P | | | |
| | Consumer shopping goods | | | | | | | | | | | P | P | P | | | P | P | P | | | | | |
| | Consumer shopping goods, large | | | | | | | | | | | | | | | | | | P | | | | | |
| | Convenience store | | | | | | | | | | | | | | | | | P | P | | | | | |
| | Horticulture nursery sales | | | | | | | | | | | | P | P | | | P | P | P | | | | | |
| | Marijuana Dispensary | | | | | | | | | | | P | P | P | | | P | P | P | | | | | |
| | Tobacco Outlets | | | | | | | | | | | | | | | | | P | P | | | | | |
| | Open-air market or flea market | | | | | | | | | | | | | | | | | | S | | | | | |
| | Self-service Storage Facility | | | | | | | | | | | | | | | | | | P | P | P | | | 3.14 |
| | Sexually oriented business | | | | | | | | | | | | | | | | | | S | | | | | 3.18 |
| Vehicles and Equipment | | | | | | | | | | | | | | | | | | | | | | | | |
| | Boat and/or RV storage | | | | | | | | | | | | | | | | | | P | P | P | P | | 3.13 |
| | Boat, RV, trailer, mobile homes sales | | | | | | | | | | | | | | | | | | P | P | P | P | | 3.13 |
| | Car wash | | | | | | | | | | | | | | | | | S | P | | | | | 3.13 |
| | Fueling station | | | | | | | | | | | | | | | | | | P | P | P | P | | 3.13 |
| | Truck stops | | | | | | | | | | | | | | | | | | P | P | | | | 3.13 |
| | Vehicles sales and rentals | | | | | | | | | | | | S | | | | | | P | | | | | 3.13 |
| | Vehicle service and repair, major | | | | | | | | | | | | | | | | | | S | P | P | P | | 3.13 |
| | Vehicle service and repair, minor | | | | | | | | | | | | | | | | | | P | P | | | | 3.13 |
| | Vehicle towing services | | | | | | | | | | | | | | | | | | P | P | P | P | | 3.13 |
| | Vehicle storage, operable vehicles only | | | | | | | | | | | | | | | | | | P | P | P | P | | 3.13 |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

| Table 2.3: Table of Allowed Uses | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|-------------------------------------|-------------|----|----|---|---|----|---|--|----|----------------|-----|-----|---|---|---|---|---|--------------------------|---|---|---|---|---|------|
| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | Supplemental Regulations | | | | | | |
| | Subcategory | Residential | | | | | | | | | Nonresidential | | | | | | | | | | | | | | |
| | | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | | I | | | P | | |
| Use Type | | | 1 | 2 | 3 | 1 | 2 | 3 | | | | | 1 | 2 | 1 | 2 | 3 | 1 | 2 | 3 | | | | | |
| INDUSTRIAL USES | | | | | | | | | | | | | | | | | | | | | | | | | |
| Industrial Service | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Fossil Fuel Storage | | | | | | | | | | | | | | | | | | | | P | P | | | |
| | General industrial service | | | | | | | | | | | | | | | | | | | | P | P | | | |
| Manufacturing and Production | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Assembly, light | | | | | | | | | | | | | | | | | | | | P | P | P | | |
| | Manufacturing, light | | | | | | | | | | | | | | | | | | | | P | P | P | | |
| | Manufacturing, heavy | | | | | | | | | | | | | | | | | | | | | | P | | |
| | Major Marijuana Processing | | | | | | | | | | | | | | | | | | | | | | P | P | |
| | Minor Marijuana Processing | | | | | | | | | | | | | | | | | S | P | P | P | | | | |
| | Marijuana Growing | | | | | | | | | | | | | | | | | | | | P | P | P | | |
| | Marijuana Research | | | | | | | | | | | | | | | | | | | | P | P | P | | |
| Mining and Processing | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Minerals and raw materials | | | | | | | | | | | | | | | | | | | | | | S | | 3.19 |
| | Oil and gas | | | | | | | | | | | | | | | | | | | | | | S | | 3.19 |
| Warehouse and Freight Movement | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Motor freight terminal | | | | | | | | | | | | | | | | | | | | P | P | P | | |
| | Office warehouse | | | | | | | | | | | | | | | | | | S | P | P | P | | | |
| | Storage yard | | | | | | | | | | | | | | | | | | | | | S | P | P | |
| | Warehouse | | | | | | | | | | | | | | | | | | | | | P | P | P | |
| | Wholesale establishment | | | | | | | | | | | | | | | | | | S | P | P | P | | | |
| Waste and Salvage | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Auto salvage yard | | | | | | | | | | | | | | | | | | | | | | S | | 3.15 |
| | Scrap operations | | | | | | | | | | | | | | | | | | | | | | S | | |
| | Recycling center(outdoor or indoor) | | | | | | | | | | | | | | | | | | S | P | P | P | | | |
| | Solid waste disposal | | | | | | | | | | | | | | | | | | | | | | S | | 3.20 |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Table 2.3: Table of Allowed Uses

| USE CATEGORY | Zoning Districts | | | | | | | | | | | | | | | | | | | Supplemental Regulations |
|----------------------------------|------------------|----|----|---|---|----|---|---|----|----------------|-----|-----|---|---|---|---|---|---|---|--------------------------|
| | Residential | | | | | | | | | Nonresidential | | | | | | | | | P | |
| | AG | RE | RS | | | RM | | | MH | DMX | LMX | CMX | O | | C | | | I | | |
| 1 | | | 2 | 3 | 1 | 2 | 3 | 1 | | | | | 2 | 1 | 2 | 3 | 1 | 2 | 3 | |
| AGRICULTURAL USES | | | | | | | | | | | | | | | | | | | | |
| Animal Husbandry | P | | | | | | | | | | | | | | | | | | | |
| Community Garden | P | P | P | P | P | P | P | P | | P | P | P | | P | P | P | P | P | P | P |
| Horticultural Nursery Production | P | | | | | | | | | | | | | | | | | P | P | P |
| Agriculture, general | P | | | | | | | | | | | | | | | | | | | |
| Livestock sales | P | | | | | | | | | | | | | | | | | P | P | |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

Section 2.4 Bulk and Area Requirements

A. Purpose

This Section contains tables that list the requirements for lot dimensions and building bulk, density, location, and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in the following tables. These general standards may be further limited or modified by other applicable sections of this Ordinance. General rules for measurement and exceptions are in Section 2.4.B.

1. *Residential Districts Bulk and Area Requirements*

| Table 2.4.A.1: Residential Bulk and Area Requirements | | | | | | | | | | |
|--|--------------------------|------------------------------|------------------------|-----------------------|-----------------------------------|----------|----------|------|-------------|--|
| District | Lot Dimensions | | | | Minimum Setback Requirements (ft) | | | | Height (ft) | Additional height (ft) per increased setback |
| | Min. Lot Area (ac/sq ft) | Lot Area Per DU ³ | Min. Lot Frontage (ft) | Max. Lot Coverage (%) | Front | Side | | Rear | | |
| | | | | | | Interior | Exterior | | | |
| AG | 5 acres | 5 acres | 300 | 30 | 40 | 25 | 35 | 35 | 35 | |
| RE | 2 acres | 2 acres | 150 | 15 | 35 | 25 | 30 | 30 | 35 | |
| RS-1 | 22,500 | 22,500 | 120 | 20 | 35 | 10 | 25 | 25 | 35 | |
| RS-2 | 10,000 | 10,000 | 75 | 25 | 25 | 8 | 20 | 30 | 35 | |
| RS-3 | 6,000 | 6,000 | 50 | 30 | 20 | 5 | 15 | 30 | 35 | |
| RM-1 | | | | | | | | | | |
| Two-family | 10,000 | 5,000 | 100 | 50 | 25 | 5 | 25 | 20 | 35 | 0.5 |
| Multi-family | 10,000 | 3,000 | 100 | 50 | 25 | 5 | 25 | 20 | 35 | 0.5 |
| Other uses ¹ | 10,000 | 10,000 | 100 | 50 | 25 | 5 | 25 | 20 | 35 | 0.5 |
| RM-2 | | | | | | | | | | |
| Two-family | 7,500 | 3,750 | 75 | 50 | 20 | 5 | 20 | 20 | 35 | 1 |
| Multi-family | 7,500 | 2,000 | 75 | 50 | 20 | 5 | 20 | 20 | 35 | 1 |
| Other uses ¹ | 7,500 | 7,500 | 75 | 50 | 20 | 5 | 20 | 20 | 35 | 1 |
| RM-3 | | | | | | | | | | |
| Two-family | 6,000 | 3,000 | 50 | 50 | 10 | 5 | 15 | 20 | 35 | 2 |
| Multi-family | 6,000 | 1,000 | 50 | 50 | 10 | 5 | 15 | 20 | 35 | 2 |
| Other uses ¹ | 6,000 | 6,000 | 50 | 50 | 10 | 5 | 15 | 20 | 35 | 2 |
| MH ² | | | | | | | | | | |
| Notes: ¹ Other uses does not include townhouse development or dwelling groups ² Detailed bulk and area requirements for MH District are in Section 3.6 ³ In the case of multi-family dwellings in RM Districts, the area in abutting streets out to the center line for a distance not to exceed 65 feet in abutting public open spaces to the center thereof for a distance not exceeding 65 feet may be counted as part of the area of lot in determining lot area per dwelling unit. | | | | | | | | | | |

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

2. *Nonresidential Districts Bulk and Area Requirements*

Table 2.4.A.2: Nonresidential Bulk and Area Requirements

| District | Lot Dimensions | | | Minimum Setback Requirements (ft) | | | | Height (ft) |
|----------|--------------------------|---|------------------------|-----------------------------------|--------------------|--|--|-------------------|
| | Min. Lot Area (ac/sq ft) | Min. Lot Frontage (ft) | Floor Area Ratio (FAR) | Front | Exterior Side Yard | Interior Side Yard & Rear Yards | | |
| | | | | | | Abutting property in a nonresidential district | Abutting property in an R or AG district | |
| DMX | - | None: Building Shall occupy min. 70% of frontage line | 10 | Min: 0 Max:10 | | - | | - |
| LMX | 1 acre | None: Building shall occupy min. 35% of frontage line | 1 | Min: 0 Max:10 | | - | | - |
| CMX | 2 acres | None: Building shall occupy min. 35% of frontage line | 6 | Min: 0 Max: 25 | | - | | - |
| O-1 | - | 50 | 0.3 | 20 | 20 | - | 20 | 35 |
| O-2 | - | 50 | 0.5 | 10 | 10 | - | 20 | - |
| C-1 | - | 50 | 0.3 | 20 | 20 | - | 20 | ^[1] 50 |
| C-2 | - | 50 | 1 | - | 20 | - | 20 | ^[1] 50 |
| C-3 | - | 50 | 6 | - | 10 | - | 35 | ^[1] 50 |
| I-1 | 12000 | 50 | - | 20 | 20 | 20 | 35 | ^[1] 50 |
| I-2 | - | 50 | - | 35 | 20 | 20 | 50 | ^[1] 50 |
| I-3 | - | 50 | - | 35 | 20 | 20 | 50 | ^[1] 50 |
| P | - | - | 10 | - | 10 | - | 20 | ^[1] 50 |

Note: [1] No height limit unless abutting a Residential or Agriculture zoning district. If abutting Residential or Agriculture zoning district building shall be set back an additional 2 feet for every foot in height above 50 feet.

B. Single Family Residential Use in Multi-Family Residential Zoned Districts

The bulk and area requirements for single family uses allowed in multifamily zoning districts shall be the same as required for the RS-3 zoning district found in Table 2.4.A.1.

C. Measurements and Exceptions

1. *Administrative Flexibility*

The Director, upon applicant submittal of a site plan may permit to be allowed up to ten percent (10%) variance from the bulk and area requirements in Section 2.4.A. The Director's assessment of the development shall include the relative impact of the proposed development.

2. *Lot Coverage*

No building, structure, or lot shall be developed, used, or occupied unless it meets the lot coverage requirements set for in Section 2.4.A for the zoning district in which it is located.

a. *Measurement*

Unless otherwise provided in this Ordinance, all structures shall be considered in determining lot coverage.

3. *Setbacks*

a. *General*

Setbacks shall be unoccupied and unobstructed by any structure; provided however, fences, walls, window sills, belt course, poles, posts, furniture and other customary yard

ARTICLE 2
DISTRICT DESCRIPTIONS AND USE PROVISIONS

accessories may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility.

b. Projections into Required Setbacks

Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed two feet (2'). Open, uncovered porches, handicapped ramps, or open fire escapes may project into a front or rear yard a distance not to exceed five feet (5'). Fences, walls, and hedges in residential development may be erected in any required yard, or along the edge of any yard, provided that no fence, wall, or hedge located in the front of the front building line shall exceed three feet (3') in height.

c. Projections Into Easements and Right-of-Way Prohibited

Projections shall not extend or encroach into any easement(s) or right(s)-of-way except through licensed agreement.

d. Effect of Previously Platted Lots

Land and lots platted prior to the effective date of this Ordinance for which setback lines are indicated on a filed plat, minimum requirements shall be as indicated on the plat. If setback lines are not indicated on the plat, setbacks shall be in accordance with Tables Section 2.4.A.

e. Measurement

Setbacks shall be measured from the applicable lot line to the nearest exterior building wall or porch. Setbacks that apply to other features are measured from the lot line to the nearest point of the area or feature for which the setback is required.

f. Sight Triangle

On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth which obstructs the line of sight at a height of thirty inches (30") above any portion of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five feet (25') along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection.

4. *Height*

a. General

Any building may exceed the height limits set forth in the district provisions, provided that the portions of the building whose height exceeds such limits shall be set back in accordance with the pertinent tables of the district provisions in Section 2.4.A.

b. Measurement of Additional Setback

Such setback shall be measured from lines parallel to and inside the side lot lines and the rear lot line and distant therefrom the width of the narrowest required side yard for such building.

c. Height Exceptions

Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limits set forth in the district provisions without additional setback being required, provided that the sum of the horizontal cross-sectional areas of all such projections on any lot does not exceed five percent (5%) of the area of the lot.

5. *Number of Dwellings on Single Family Lots*

Except where provided for Accessory Dwellings, no more than one (1) single family dwelling shall be allowed per lot in any residential zoning district.

ARTICLE 3
SUPPLEMENTAL REGULATIONS

Article 3

Supplemental Regulations

Section 3.1 Purpose

This Section includes supplemental regulations that apply to some uses as indicated in the Table of Allowed Uses. These regulations are supplemental to the applicable zoning district regulations. The applicability of these supplemental regulations is indicated in the individual sections of this Article and identified in the Table of Allowed Uses of the respective zoning district.

Section 3.2 Accessory Uses & Structures

Accessory uses are incidental and customarily subordinate to principal uses. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, structures, and activities typically associated with the use, unless specifically prohibited in this ordinance. All accessory uses shall be subject to the standards in this Section, as well as any special exception requirements applicable to the principal uses and accessory uses.

A. Accessory Structures

1. General

- a. The accessory structure shall be located on the same lots(s) as the principal use.
- b. No accessory structure shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.
- c. An accessory structure erected as an integral part of the principal building shall be made structurally a part thereof, shall have a common wall therewith, and shall comply with all respects with the requirements of these and other regulations applicable to the principal building .
- d. Storage and other accessory structures shall be designed and constructed with like materials and/or architectural elements that are related to the principal building(s).
- e. Accessory structures shall not be placed in any utility or drainage easement.

2. Size and Location in Residential Districts for Detached Accessory Structures

A detached structure shall be located:

- a. On the rear two-thirds (2/3) of the lot;
- b. At least six feet (6') from any existing dwelling or dwelling under construction;
- c. At least five feet (5') from any interior and/or rear lot line;
- d. If on a corner lot, shall not project in front of the front building line required or existing on the adjacent lot, nor closer than twenty-five feet (25') to the street line from which vehicular access is gained; and
- e. Accessory buildings shall not cover more than thirty percent (30%) of the area of the required rear yard.

B. Home Occupations

A home occupation or service may be permitted as an accessory use to a principal dwelling unit in any of the residential districts, provided that:

1. Occupational License Required

All home occupations shall obtain a valid occupational license from the City.

2. Employees and Residency

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No person other than members of the family residing on the premises shall be engaged in a home occupation.

3. *Size/Area*

Home occupations shall not occupy more than thirty percent (30%) of the gross floor area nor more than three hundred (300) square feet of the gross floor area, whichever is greater.

4. *Neighborhood Compatibility*

- a. There shall be no exterior alterations or other visible evidence of the conduct of such home occupation which would detract from the residential character of the structure or premises,
- b. There shall be no advertising or display, except that authorized in Section 4.1.
- c. There shall be no equipment or process which creates, noise, vibration, glare, fumes, odors, or electrical interferences.
- d. Wholesale and retail sales of goods shall not occur on the premises.
- e. There shall be no outdoor display or storage of goods or services that are associated with the home occupation.
- f. No home occupation shall be conducted in any accessory building.
- g. There shall be sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself pursuant to Section 4.4.
- h. No additional parking areas other than driveways shall be located in the required front yard setback.

D. **Detached Accessory Dwellings**

Detached Accessory Dwelling shall be allowed in AG, RE, and RS-3 Zoning Districts. Detached Accessory Dwellings may be built in the rear yard of the lot where a principal single-family dwelling is, if there is compliance with all other provisions of these regulations. In addition, the accessory dwelling unit gross floor area shall not be more than fifty percent (50%) of that of the principal building. The accessory dwelling shall be provided with off-street parking requirements.

E. **Occupancy Limitations in Nonresidential Districts**

An accessory use shall not occupy more than fifty percent (50%) of the building square footage associated with the principal use.

F. **Swimming Pools and Associated Equipment**

Swimming pools may be placed in rear yards and rear building line areas upon approval and issuance of a building permit in any Residential District. No swimming pool, nor any part of it, inclusive of decks and equipment, shall be placed in any utility or drainage easement. No swimming pool, nor any part of it shall be closer than ten feet (10') to any property line.

Section 3.3 Temporary Uses

A. **General Requirements**

All temporary uses or structures shall meet the following minimum requirements, unless otherwise specified in this Ordinance:

1. *Permit Required*

All temporary uses and structures shall obtain a temporary use permit.

2. *Exempt Temporary Uses*

- a. Events authorized by the City Council;
- b. Temporary uses that occur wholly within an enclosed permanent building;
- c. Garage sales;
- d. Temporary dumpsters for ongoing construction, provided that all permits remain valid.

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3. Compliance with Other Regulations

All temporary uses allowed by this Ordinance shall comply with all other applicable regulations of this Ordinance, including but not limited to, signs, parking, and setbacks.

B. Temporary Uses Allowed; Time Limitations

1. Temporary office space and equipment storage when accessory to an approved construction project. Temporary office space and equipment storage shall be removed from the site within thirty (30) days after completion of such project.
2. Sales offices on residential development sites until all lots or houses are sold or leased.
3. Expansion or replacement facilities; transportable buildings that are site ready for occupancy and readily removed and installed at other sites. Such facilities shall be approved following filed development plans for permanent/expansion of facilities.

Section 3.4 Townhouse Development

A. Bulk and Area Requirements

In those districts where townhouse developments are allowed, as shown in the Table of Allowed Uses, a building permit may be issued for such development, provided that they development conforms to the minimum bulk and area requirements in the table below.

Table 3.4: Bulk and Area Requirements for Townhouse Developments

| District | Lot Dimensions | | | | Minimum Setback Requirements (ft) for Development | | | | | Additional height (ft) per increased setback |
|----------|-----------------------|-------------------------|------------------------|-----------------------|---|----------|----------|------|-------------|--|
| | Min. Lot Area (sq ft) | Development Area Per DU | Min. Lot Frontage (ft) | Max. Lot Coverage (%) | Front | Side | | Rear | Height (ft) | |
| | | | | | | Interior | Exterior | | | |
| RM-1 | 10,000 | 5,000 | 30 | 50 | 25 | 5 | 25 | 20 | 30 | 1 |
| RM-2 | 7,500 | 3,000 | 25 | 50 | 20 | 5 | 20 | 20 | 30 | 1 |
| RM-3 | 6,000 | 2,000 | 20 | 50 | 10 | 5 | 15 | 20 | 30 | 2 |

B. Livability Open Space Required

In any townhouse development there shall be a minimum of two-hundred (200) square feet of livability open space per dwelling unit. The open space required may be provided either on each townhouse lot or in common area(s) within the overall townhouse project.

Section 3.5 Dwelling Groups

Except where dwelling groups are permitted, or in the case of an accessory dwelling as allowed in Section 3.2.C, no more than one dwelling structure shall be erected or placed on any lot. In those districts where dwelling groups are allowed a building permit may be issued for the erection of such dwelling group, provided that the development conforms to the following minimum conditions and requirements:

A. Minimum Lot Area

The area of the lot on which the dwelling group is to be erected shall be at least fifteen percent (15%) greater than the aggregate of the minimum lot area required per dwelling unit in each zoning district where dwelling groups are allowed.

B. Separation Other than Fronting

In each case, the distance between principal buildings shall not be less than the sum of the least widths of the affected yards required in the district in which the dwelling group is to be located.

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C. **Fronting Not Required**

The front building line of structures within a dwelling group development shall not be required to front a public street.

D. **Setbacks Observed**

The setbacks required for each zoning district shall be observed for the entire lot for which the dwelling group is located.

E. **Access and Parking**

Vehicular access to parking areas serving dwelling groups within the development may come from a street, alley, or private drive. Every residential structure in the dwelling group shall be within sixty feet (60') of a public street, alley, or private access drive having a minimum paved width of twenty feet (20'), provide that the length of such private road be a maximum of three hundred feet (300'), measured from the street to the end of a turnaround. Required parking may be provided for each structure in the development or within commonly owned space or in combination of the two.

F. **Compliance with Other Zoning Requirements**

Dwelling groups shall conform to all the requirements of the zoning regulations for the district in which it is located including but not limited to Sign Code, Parking, Fencing and Screening etc.

G. **Common Open Space**

For all dwelling groups there shall be a minimum of two hundred (200) square feet of open space provided for each dwelling unit. The open space shall be developed to be a part of whole development for which each dwelling unit shall have access.

Section 3.6 Mobile Home Parks

In the district where mobile homes parks are allowed, a mobile home park may be established provided that each park complies with following conditions:

A. **General**

1. No mobile home shall be permitted outside of an approved mobile home park.
2. No new placement of travel trailers shall be permitted within any mobile home park within the Tahlequah city limits. The placement of travel trailers is restricted to RV Parks and Campgrounds only, provided that existing mobile home parks having existing spaces equipped for travel trailer usage are permitted to continue to locate trailers at such sites.
3. Mobile homes presently existing inside of a mobile home park may remain provided they are maintained and operated in accordance with all applicable regulations, licenses, and permits of the City.
4. Mobile homes presently existing outside of a mobile home park by reason of a variance and/or permit granted by the City of Tahlequah may remain, so long as the variance and/or permit is in effect or is extended by the City Council.
5. Any new placement of a mobile home within a mobile home park shall be in accordance with the standards as set forth in these regulations.

B. **License Required**

1. *License Required*

It is unlawful for any person to maintain or operate mobile home park within the limits of the City unless the owner or operator holds a valid license issued annually by the City Clerk.

2. *Application*

Application shall be made to the City Clerk, or their designee, who shall issue an license upon compliance by the applicant with all pertinent provisions of this and other regulations of the City. Every person holding a license shall notify the City Clerk, or their designee, in writing

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within twenty-four (24) hours after have sold, transferred, given away or otherwise disposed of interest in or control of any mobile home park. The notice shall include the name and address of the person succeeding to the ownership or control of such park.

C. **Bulk and Area Requirements**

1. *Mobile Home Park Tract*

Each mobile home park tract shall meet the following minimum requirements:

| | |
|--|-------------------|
| Total Area | 2.5 acres |
| Area per mobile home space | 4,000 square feet |
| Width at principal entrance | 50 feet |
| Building Setback from public road | 25 feet |
| Building setback from side boundary line | 20 feet |
| Building setback from rear boundary line | 20 feet |
| Street Frontage | 300 feet |

2. *Individual Mobile Home Spaces*

Each individual mobile home space in a mobile home park shall meet the following minimum requirements. In addition, each lot shall be clearly defined.

| | |
|---|-------------------|
| Area | 3,000 square feet |
| Frontage setback | 15 feet |
| Separation between mobile home And boundary of mobile home spaces | 10 feet |
| Rear yard | 20 feet |
| Lot frontage | 30 feet |

D. **Common Open Space**

There shall be at least three hundred (300) square feet of common recreation space per mobile home space; the minimum area of any common recreation area shall be ten thousand (10,000) square feet, and the minimum width of any such area shall be eighty (80') feet. Each required common recreation area shall be within five hundred feet (500') of each of the mobile homes it is intended to serve, measured along a route of pedestrian access. Such recreation area shall be no nearer than twenty five feet (25') to any exterior property line. Each required common recreation area shall be graded and drained so as to dispose of all surface water accumulated within the recreation area and shall be surfaced with turf or other dustless surface.

E. **Off Street Parking Areas**

All mobile homes spaces shall have a minimum of two (2) parking spaces per mobile home. The area designated for vehicular parking shall be that of sealed surface to minimize dust. Driveways constructed for off-street parking requirements shall not exceed twenty-four feet (24') in width.

F. **Interior Streets**

Interior streets and drives shall be improved in accordance with the requirements for streets as set forth in the subdivision regulations and properly maintained.

G. **Accessory Commercial Facilities**

In a mobile home park containing at least one hundred (100) improved mobile home spaces there may be provided accessory commercial uses for the convenience of the residents of the development, provided that:

1. The gross floor area of such accessory uses shall not exceed twenty-five (25) square feet for each mobile home space in the park;

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2. All commercial uses shall be governed by the requirements of this Ordinance, but shall be so located and arranged that their commercial character is not evident from the street or from any other residential development; and
3. No such structure shall be closer than fifty feet (50') to any residential or office development outside of the mobile home park development.

H. **Landscaping, Screening, and Fencing**

1. *Location*

The required screening shall be located adjacent to the right(s)-of-way of the entire public road frontage of the development site, except where permitted driveway openings and sight distance triangles are required. Screening areas may be installed in buffer areas including but not restricted to, drainage areas, maintenance, and utility easements.

2. *Screening Area Specifications and Design*

Specifications for the screening area options are listed below. Combinations of these options may be allowed in achieving compliance with the provisions of this Section, upon approval by the planning and development department during preliminary plan review.

a. Berms

| | |
|---------------------|--------|
| Minimum Height | 5 feet |
| Minimum crown width | 3 feet |
| Minimum slope | 4:1 |

b. Plantings

| | |
|----------------------------------|--------|
| Minimum screening area width | 5 feet |
| Number of plants per linear feet | |
| Shrub | 20 |
| Understory tree | 5 |
| Canopy tree | 3 |

i. Plant Specifications

Shrubs:

All shrubs must provide effective year round screening to minimum visual height of thirty-six inches (36"), and a minimum spread of thirty inches (30") with three (3) years of planting.

Understory Tree:

Understory trees shall be a minimum of four feet (4') high and one inch (1") in caliper, measured six inches (6") above grade when planted. When Mature, an understory tree should be between fifteen (15) and forty feet (40') high.

Canopy Tree:

Canopy trees shall be a minimum of eight feet (8') high and two inches (2") in caliper, measured six inches (6") above grade, when planted. When mature, a canopy tree should be at least forty feet (40') high and have a minimum crown width of thirty feet (30').

Groupings:

Shrubs and trees may be grouped or clustered, however, no more than fifty percent (50%) of each required plant material may be grouped or clustered. The remainder of the materials shall be evenly distributed throughout the screening area.

c. Fences

| | |
|----------------|--------|
| Minimum height | 5 feet |
| Maximum height | 7 feet |

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| | |
|----------------|--|
| Fence material | Masonry or stone wall, wood or similar opaque materials. |
|----------------|--|

d. Maintenance

The owner is responsible for maintaining berms to adequately control soil erosion and sedimentation. The owner is also responsible for maintaining any plantings and fences selected as screening materials. Plantings should be kept in good health and appearance. Any dead, unhealthy, or missing plants shall be replaced in ninety (90) days with like or similar vegetation. All fences shall be maintained in a safe manner vertical to the ground. Fences no longer maintained in a safe manner through neglect, lack of repair, manner of construction method of placement, or otherwise shall be repaired or replaced with appropriate substitute materials.

i. **Installation and Building Permit Requirements**

1. *Building Permit*

Each mobile home must be installed in accordance with building permit requirements of the City. Installers shall not connect utilities prior to the issuance of a building permit. Each installation must be inspected by the Building Official.

2. *Pad or Foundation Required*

Each mobile home shall be placed upon a pad or foundation. At a minimum, the pad, or foundation shall be constructed in accordance with the manufacturer's specifications and the permanent foundations guide for manufactured housing. HUD document 007487 and any revisions thereto.

3. *Anchors and Ties*

Every mobile home must be anchored and tied for safety purposes in accordance with the manufacturer's specifications.

4. *Tie Downs*

All mobile home or travel trailer tie downs must be installed in accordance with the manufacturer's specifications or where no such specifications exist, said tie downs shall be located in footings or foundation piers and must have a holding capacity of four thousand eight hundred (4,800) to five thousand seven hundred (5,700) pounds.

5. *Skirting*

Every mobile home shall be skirted or otherwise located so that the chassis is not visible and such skirting shall be in exterior materials that match or are otherwise compatible with the primary structure. All skirting shall be maintained so as not to provide harborage for rodents or other vermin or create a fire hazard.

6. *Other Regulations*

In addition to complying with this Section, any mobile home park shall comply with all pertinent rules and regulations of the State of Oklahoma and of the local unit of government, concerning, but not limited to water supply, sewage disposal, electrical distribution, refuse handling, insect and rodent control, fuel supply and storage, and fire protection.

j. Nonconformities

Any mobile home park existing at the time of adoption of this Ordinance or amendments thereto, may be continued although such park does not conform to the provisions of this Ordinance. Any nonconforming use which has been discontinued for a continuous period of one (1) year shall not be re-established except in conformity with this Ordinance. A lawful non-conforming park shall have an operating license, renewed every year, subject to conformity with the regulations in effect at the time the park was established. No nonconforming park may be expanded, added to, or changed except in conformity with this Ordinance. In cases where a park is expanded, added to or changed, only the area expanded, added to or changed must conform with this Ordinance.

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Section 3.7 Modular Homes

A modular home may be placed in accordance with all provisions of this Ordinance and the following requirements:

- A. Modular homes may be located on any site for which use of the structure is consistent with the zoning applicable to the site unless prohibited herein, and provided that the structure and its operation conform to all zoning regulations, building codes and other requirements and regulations of the city.
- B. A building permit shall be required for all modular homes prior to the installation on a lot or space inside of the city limits. The building permit and inspection fees shall be the same as a site built structure. No utilities shall be connected prior to the issuance of a building permit.
- C. Construction documents including a foundation design shall be submitted in one or more sets with each application for a building permit.
- D. All framework used for transporting the structure shall be removed.
- E. Prior to the issuance of a certificate of occupancy all third party inspection reports from the factory shall be provided to the Building Official.
- F. The modular home shall be placed on a permanent masonry foundation wall, under all exterior walls, enclosed, except for necessary openings for access and ventilation not to exceed ten percent (10%) of the foundation wall.

Section 3.8 Wireless Communications Towers (Freestanding Towers)

A. Purpose

The purpose of this Section is to establish general guidelines for the siting of wireless communications facilities and antennas. This Section will achieve the following:

- 1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
- 2. Encourage the location of towers in nonresidential areas;
- 3. Minimize the total number of towers throughout the community;
- 4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single use towers;
- 5. Encourage users of towers and antennas to locate them, to the greatest extent possible, in areas where the adverse impact on the community is minimal;
- 6. Encourage users of towers and antennas to configure them in a way that minimize the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovated camouflaging techniques;
- 7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- 8. Consider the public health and safety of communication towers; and
- 9. Avoid potential damage to adjacent properties from tower failure thought engineering and careful siting of tower structure, in furtherance of these goals, the City of Tahlequah shall give due consideration to the master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

B. Applicability

1. *New Towers and Antennas*

All new towers or antennas in the City of Tahlequah shall be subject to these regulations, except as provided in the subsections of this Section.

2. *Amateur Radio Station Operators/Receive only Antenna*

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This Article shall not govern any tower, or the installation of any antenna, that is under fifty feet (50') in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

3. *Preexisting Towers or Antennas*

Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Section, other than the requirements of Subsection 3.8.C.6 of this Section.

4. *Guyed Towers*

Guyed towers shall not be allowed within the city limits unless there is substantial evidence showing no other alternative is feasible presented to Planning Commission.

C. *General Requirements*

1. *Principal or Accessory Use*

Antennas and towers may be considered either principal or accessory uses. A Different use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot, provided it meets all required setback distances.

2. *Lot Size*

For the purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.

3. *Inventory of Existing Sites*

Each applicant for an antenna and/or tower shall provide to the City Building Official an inventory of its existing towers, antennas, or sites approved for towers and/or antennas, that are either within the jurisdiction of the City of Tahlequah or within one (1) mile of the border thereof, included specific information about the locations, height, and design of each tower, the City Building Official may share such information with other applicants applying for administrative approvals or special exception under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the City of Tahlequah, provided, however, that the City Building Official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. *Aesthetics*

Towers and antennas shall meet the following requirements.

- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- b. At a tower site, the design of the building and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

5. *Lighting*

Towers shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6. *State and Federal Requirements*

All towers must meet or exceed current standards and regulations of the state or federal government with the authority to regulate towers and antennas. If such standards and

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regulations are changed, then owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations.

7. *Measurement*

For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Tahlequah irrespective of municipal and county jurisdictional boundaries.

8. *Not Essential Services*

Towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

9. *Franchises*

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Tahlequah have been obtained and shall file a copy of all required franchises with the City Building Official.

10. *Signs*

No signs shall be allowed on an antennas or tower except such signs as may be required by law.

11. *Building and Support Equipment*

Building and support equipment associated with antennas or towers shall comply with the requirements of this Section.

D. **Permitting and Design Standards**

1. *Permit Required*

A permit must be obtained from the City before installation or construction of any antenna, tower, or other communication device. Applicants for a permit for an antenna, tower, or other communication device shall submit the following information in addition to any other required information.

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in Subsection 3.8.D.3 of this Section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawing of the proposed tower and other structures, topography, parking, and other information deemed by the City Building Official to be necessary to assess compliance with this Section.
- b. Legal description of the parent tract and lease parcel (if applicable).
- c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection 3.8.C.3 of this Section shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s), if known.
- e. A landscape plan showing specific landscape materials.
- f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

2. *Setbacks*

The following setback requirements shall apply to all towers for which a permit is required:

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- a. Towers must be set back a distance equal to at least seventy five percent (75%) of the tower from and adjoining lot line.
- b. Accessory buildings must satisfy the minimum zoning district setback requirements.

3. *Separation*

The following separation requirements shall apply to all towers and antennas for which a permit is required:

- a. Tower separation shall comply with the following minimum requirements.
 - i. Residentially Zoned Properties: Two hundred feet (200') or three hundred percent (300%) height of tower, whichever is greater.
 - ii. Nonresidential Zoned Lands or Nonresidential Uses: None; only setbacks apply.
 - iii. Separation shall be measured from the base of tower to the closest building setback line.

b. Separation Distance Table

Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distance shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (shown in linear feet) shall be as shown below:

| Table 3.8.D.3.b: Tower Separation Distance | | | | |
|--|---------|-------|--------------------------------------|--|
| | Lattice | Guyed | Monopole 75' or more in height | Monopole Less than 75' in height |
| Lattice | 5,000 | 5,000 | 1,500 | 750 |
| Guyed | 5,000 | n/a | 1,500 | 750 |
| Monopole 75' or more | 1,500 | 1,500 | 1,500 | 750 |
| Monopole 75' or less | 750 | 750 | 750 | 750 |

4. *Security Fencing*

Towers shall be enclosed by security fencing not less than six feet (6') in height and shall be also equipped with an appropriate anti climbing device.

5. *Landscaping*

The following requirements shall govern the landscaping surrounding towers for which a permit is required:

- a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter compound.
- b. The locations where the visual impact of the tower would be minimal, the landscaping requirements may be reduced.
- c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

6. *Buildings or Other Equipment Storage:*

- a. Antennas Mounted on Structures or Rooftops
Equipment storage buildings or cabinets shall comply with all applicable building codes.

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b. **Antennas Mounted on Utility Poles or Light Poles**

The equipment cabinet or structure used in association with antennas shall be located no greater than eight feet (8') in height. The structure cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet (8') in height and a planted height of at least thirty six inches (36"). In all other instances, structure or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence or an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty six inches (36").

E. **Removal of Abandoned Towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Tahlequah notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense and/or a fine not to exceed five hundred dollar (\$500.00) per offense. Each day that the tower remains after said notice shall constitute a separate offense.

Section 3.9 Animal Service

A. **General Standards**

1. All animal services, where permitted, that provide outdoor shelter or boarding of small household pets and similar animals that are located within five hundred feet (500') of a residential or office district shall be so constructed that sounds therefrom are not audible in such district. All runs shall be surfaced with an impervious material and shall be enclosed by a solid, eight foot (8') wall.
2. All animal services, where permitted, that serve large animals, including but not limited to horse training, breeding, and large animal veterinary, shall be conducted on lots no less than five (5) acres. In sheltering and boarding large animals, runs surfaced with impervious material shall not be required.

Section 3.10 Bed & Breakfast

A. **General Provisions**

The supplemental use regulations of this Section apply to all bed and breakfast uses.

1. In residential districts bed and breakfasts are limited to a maximum of six (6) guest rooms unless a lower limit is established by the Board of Adjustment as a condition of an approved special exception.
2. The maximum length of stay for any guest is limited to thirty (30) consecutive days.
3. The owner/operator must maintain a register of guests and an on-site events for each calendar year and make the register available to city code enforcement officer upon request.
4. Cooking facilities are prohibited in guest rooms.
5. Signs are allowed in accordance with Section 4.1.
6. Parking shall be provided as required in Section 4.4.

Section 3.11 Campgrounds and RV Parks

In the districts where campgrounds and RV parks are allowed, a campground or RV park may be established provided that each park complies with the following conditions:

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A. Bulk and Area Requirements

1. *Park Tract*

Each campground or RV park tract shall meet the following minimum requirements:

| | |
|-----------------------------|-------------------|
| Area | 5 acres |
| Area per individual space | 3,000 square feet |
| Width at principal entrance | 50 feet |
| Street frontage | 300 feet |

2. *Individual spaces*

Each individual space in a campground or RV park shall meet the following minimum requirements. In addition, each lot shall be clearly defined and no further than three hundred feet (300') from any required service building:

| | |
|-----------|-------------------|
| Area | 3,000 square feet |
| Lot width | 25 feet |

3. *Setbacks*

Individual sites, travel trailer, or RV unit pads shall be so located to meet the following minimum requirements:

- a. Sites, travel trailer or RV unit pads shall be setback from the drive or roadway gaining access from a minimum of twenty-five feet (25').
- b. Sites, travel trailer or RV unit pads shall be arranged so that there is a minimum of 30 feet (30') between each site or pad.
- c. Sites, travel trailer or RV unit pads shall not be within fifty feet (50') of any campground or RV Park boundary.

B. Interior Streets

Interior streets shall be improved in accordance with the requirements for street construction set forth in the subdivision regulations of the City.

C. Other Regulations

1. *Service Building Provided*

Each park accommodating travel trailers shall provide facilities that include a minimum of four (4) toilets, four (4) lavatories, and four (4) showers with individual dressing accommodations for the first fifteen (15) spaces. There shall be one (1) additional toilet, lavatory, shower, and individual dressing accommodations for each additional fifteen (15) spaces or fraction thereof.

2. *Service Building Construction*

The service buildings shall be of permanent construction and adequately lighted. The structure shall be adequately heated and supply adequate hot water during peak demands.

3. *Utility Service*

Service buildings, water supply, and sewage disposal systems shall be connected to public utility systems.

4. *Length of Stay*

No camping, travel trailer, or RV unit may be used as a primary residence. The maximum length of a single stay per RV Park shall be no more than thirty consecutive (30) days.

5. *Paved Surface*

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All of the area used for parking of vehicles, travel trailers, RV units, and all driveways used for vehicle ingress and egress shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.

6. *Lighting*

Adequate artificial lighting shall be provided for all walkways, streets, parking areas, sanitary facilities, storage areas, and recreational facilities. No lighting shall be constructed or positioned so as to cause direct or undesirable illumination of adjacent property or campground spaces within the park.

7. *Parking*

There shall be provided a minimum of one (1) parking spaces for each individual space.

8. *Landscaping, Screening, and Buffering*

In addition to the landscaping requirements in Section 4.2, where no natural vegetative buffer exists, screening shall be developed not less than eight feet (8') in height containing trees, shrubs or any combination thereof to screen boundaries visible from City right(s)-of-way or existing houses.

9. *Restricted use*

Individual lots shall be occupied by only travel trailers as defined in this Ordinance and tents.

D. **Application**

Applicants proposing development of a campground and/or RV Park shall submit an application prepared by the Director with attached plans for the proposed development. The plan shall be drawn to scale showing the following:

1. Name and address of the applicant and of the land owner.
2. Number, description, and dimensions of each individual lot.
3. The locations and sizes of all existing and proposed buildings.
4. The width, length, location, and construction details of all roads.
5. The location of utility lines, size of all water and sewer lines, and electrical lines and proposed easements.
6. Attached letters of intent to serve from appropriate utility providers.
7. Other pertinent information requested by the Director that would benefit the technical advisory committee (TAC).

E. **Technical Advisory Committee (TAC)**

The technical advisory committee shall review the application of the campground or RV park and make recommendations to planning and development director for approval.

F. **License Required**

An annual license to operate a campground and/or RV Park is required.

G. **Registration of occupants**

It shall be the responsibility of the owner or manager of the RV Park to keep a current record of the names and addresses of the occupants of each RV space, the make, model, year and license number of each RV and motor vehicle by which it is towed, the state, territory or country issuing such licenses, and the arrival and departure dates of each occupant. This record must be made available for inspection to all appropriate agencies whose duties necessitate acquisition.

H. **Nonconformities**

Any lawful RV park, travel trailer park, or campground existing at the time of adoption of this Ordinance or amendments thereto, may be continued although such park or campground does

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not conform to the provisions of this Ordinance. Any nonconforming use which has been discontinued for a continuous period of one (1) year shall not be re-established except in conformity with this Ordinance. A lawful non-conforming park or campground shall have an operating license, renewed every year, subject to conformity with the regulations in effect at the time the park was established. No nonconforming park or campground may be expanded, added to, or changed except in conformity with this Ordinance. In cases where a park or campground is expanded, added to or changed, only the area expanded, added to or changed must conform with this Ordinance.

Section 3.12 Parking Non-Accessory

A. Applicability

All or a portion of the required off-street parking for nonresidential uses may be provided off-site, any accessible parking spaces and required parking for residential uses may not be located off-site.

B. Location

Off-site parking areas must be located within a six hundred foot (600') radius of the use served by such parking, measured between the nearest public entrance door of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot. Off-site parking lots are allowed only in zoning districts that permit non-accessory parking or in districts that allow the principal use to be served by the off-site parking spaces.

C. Design

Off-site parking areas must comply with all applicable parking area design regulations in Section 4.2 and Section 4.4.

D. Interest Required

The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is provided guaranteeing the long-term availability of parking, commensurate with the use served by the parking. The agreement must be filed of record in the Cherokee County Clerk's office. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this ordinance.

Section 3.13 Vehicles and Equipment

Where vehicles and equipment uses are allowed, all areas where vehicles are stored or parked, either for sale, rental, storage, or temporarily for service, shall be constructed of sealed surface material and shall not count toward parking requirements for each use in Section 4.4.

Section 3.14 Self-Service Storage Facility

- A. Other than points of access, the storage facility shall have a brick or masonry wall of no less than six feet (6') in height on all portions fronting a street. When abutting a residentially zoned property the facility shall have an opaque wall of no less than six feet (6') in height. The use of chain link or barbed wire, where required above, is prohibited.
- B. Units shall be used solely for the purpose of storage of goods and possessions and shall not be used for conducting or operating a business, hobby, or any type of activity not related to the storage of personal property.
- C. No outdoor storage is permitted on the site of a Self-Storage Facility.

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Section 3.15 Auto Salvage and Scrap Operations

Scrap material handling and storage, including junk yards, auto salvage and scrap metal processing, shall be in conformance with the following provisions:

A. **Screening Required**

If the operation is not conducted within enclosed buildings, the operation shall be completely enclosed by an eight foot (8') high solid fence and the storage of material shall not exceed the height of the fence. A gate for ingress and egress shall be permitted but shall be screened.

B. **Height Reduction Exception**

The height of the fence may be reduced to six feet (6') when the use is conducted at an elevation two feet (2') or more above the crown of the adjacent roadway.

C. **Material Exception**

A steel mesh fence may be substituted for a solid fence on the rear of the use and up to the rear three-fourths (¾) of the use when the use abuts property used for industrial purposes and such portion cannot be seen from a public street or road, which fact shall be determined by the Building Official.

D. **Setback; Separation**

The fence shall be set back at least ninety feet (90') from the center line of any abutting major street and at least ten feet (10') from the street line of such thoroughfares. A temporary or permanent building may be erected within the required setback. All uses of this type shall be located at least two hundred feet (200') from any property line of a residential or office district.

Section 3.16 Non-Residential Uses in Residential Districts

The following requirements apply to all nonresidential uses where permitted or abutting a Residential District. Separation of structures or areas of uses listed in Table 3.16 from the nearest other property in a Residential District shall be as follows, unless more stringent requirements appear elsewhere in this Ordinance.

| Table 3.16: Nonresidential Uses Separation Requirements | |
|---|----------------------------|
| Type of Structure or Element of the Facility | Minimum Separation (feet) |
| Outdoor Facility or Use | |
| Eating or picnic area | 100 |
| Entrance driveway | 20 |
| Landscaped or otherwise planted area | None |
| Off-street parking area | As provided in Section 4.4 |
| Outdoor activity area, NEC* | 75 |
| Outdoor spectator facilities for sports and similar events | 200 |
| Outdoor sports area without spectator facilities | 100 |
| Air conditioning tower or condenser unit, but not including a window unit | 50 |
| Indoor Facility or Use | |
| General recreation, public assembly, recreation center having a floor area of more than 1,200 square feet | 150 |
| Building of a general hospital or convalescent home | 50 |
| All other indoor facilities | 75 |
| * NEC = Not Elsewhere Covered | |

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In case any facility or element falls within two or more of the categories set forth above, the greatest separation shall apply. All lighting facilities, shall be in conformance with Section 4.5. All outdoor activity areas shall be made dustless by turfing, paving, or other suitable means.

Section 3.17 Utilities

A. **Screening**

Utility substations, lift stations, pumping stations, regulation stations, or similar facility shall be screened in accordance with Section 4.3.

B. **Lot for Certain Utility Facilities**

Where a lot is proposed to be used as the site for a utility substation, pumping station, pressure regulating station, or similar facility whose nature is such that the lot area or width may appropriately be less than the minimum established herein for the district in which the lot is located, the Board of Adjustment may, on application, reduce the minimum for such individual facility.

Section 3.18 Sexually Oriented Businesses

A. **Separation**

Sexually oriented businesses as defined in this Ordinance shall only be allowed in those districts and under those approval procedures expressly allowed under this Ordinance. In addition, sexually oriented businesses shall not be located within one thousand (1,000) feet of any of the following uses:

1. Another sexually oriented business;
2. A school, including all contiguous property owned or leased by the school;
3. A public or private park; and
4. Any residentially zoned district.

B. **Applicability**

The separation distance requirements of this Section apply to new sexually oriented business establishments, the relocation of sexually oriented business establishments, the enlargement of sexually oriented business establishments in scope or area or the conversion of an existing business location to any sexually oriented business establishment.

C. **Measurement**

The minimum separation distance must be measured in a straight line from the nearest point of the wall of the portion of the building occupied by a sexually oriented business establishment to the nearest point on a property line occupied by one of the uses or districts described in Section 11.2.C.13.

Section 3.19 Mining and Processing

As part of the special exception review and approval process for any mining or mineral processing use, the Board of Adjustment must consider potential environmental impacts, such as noise, dust, and vibration, and is authorized to establish conditions of approval, including but not limited to, setbacks, fencing and screening, traffic control, abandonment, and methods of operation, to help control and mitigate adverse land use and environmental impacts on surrounding areas.

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Section 3.20 Solid Waste Disposal

This use shall be approved in accordance with state and federal regulations and guidelines and shall be situated on land no less than one hundred and sixty (160) acres.

Section 3.21 Mobile Food Vendors

A. **License Required**

A license shall be required to operate a mobile food establishment within the City of Tahlequah. The application shall be on a form furnished by the City of Tahlequah and shall require such information the City may deem necessary to approve such application.

B. **Proposed Locations and Site Plan Required**

The applicant shall provide a list of locations and a site plan showing the proposed location(s) of the mobile food vendor operation, parking area, seating area, drives, and existing building.

C. **Conformance with Other Provisions**

The mobile food vendor shall be in conformance with all other provisions of the Ordinances within the City regulating traffic and rights-of-way, all rules and regulations of the State of Oklahoma, and all other provisions in this Ordinance.

D. **Exemptions**

Mobile food vendors associated with a valid event approved by the City shall be exempt from these provisions.

Section 3.22 Tobacco Outlets

A. **Location**

The location of a tobacco outlet shall be prohibited within three hundred feet (300') of any playground, school, or other facility when the facility is used primarily by persons under twenty-one (21) years of age. The distance shall be measured as the shortest straight line distance from the property line of the proposed tobacco outlet to the property line of the entities listed below:

1. Public or private school
2. Playgrounds.
3. Facility used primarily by persons under twenty-one (21) years of age.

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Section 4.1 Signs

A. Purpose

It is the intent of this Section to control all signs in order to protect property values, to encourage the most appropriate use of land, to secure safety in the streets, to achieve a more desirable living environment, to protect and enhance the attractiveness of the City of Tahlequah, and generally to promote the public safety and welfare. Therefore, it is the purpose of this Section:

1. To regulate the number, size, location and manner of signs by zoning districts.
2. To prohibit the erection of signs in such number, size, manner and location as may create danger to the public by obscuring road signs, warning signs, lawfully required notices, and other signs essential to the safety and convenience of the public.
3. To prohibit signs which are likely to create unsafe condition by diverting the attention of motorists from their driving for periods likely to result in accidents.
4. To prohibit sign structures which may create a danger of injury to property or person because of difficulty of keeping the signs and their structure in good repair.
5. To exempt certain signs from these regulation.

B. Permit Required

Prior to the erection or installation of any permitted permanent or temporary sign, but not including exempt signs under Section 4.1.E, a sign permit shall be obtained from the City. Provided, however, that no permit shall be required for any change of copy nor for the repainting, cleaning and other normal maintenance or repair of sign or sign structure, so long as said sign or sign structure is not modified in shape, size or dimension in any way. It shall be unlawful to erect or install any sign without having first obtained the permits required by this Section.

C. General Provisions

The following regulations shall apply to all signs in the City of Tahlequah unless otherwise exempted:

1. No sign shall be constructed, erected or maintained unless it is in compliance with the regulations of this Article.
2. Signs must be constructed of durable material, be maintained in good condition, and not be permitted to become dilapidated.
3. Signs shall be illuminated only by stationary, shielded light sourced directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians, or neighboring premises, unless otherwise allowed in accordance with the provisions of this Article.
4. Any off premises sign which advertises an activity, business, produce, or service which has ceased operation, existence or production, or which no longer carries a message, for a period of one hundred eighty (180) days shall be removed at the end of said period,

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provided, however, that no such removal shall be required for any such sign maintained in good condition and whose display face is covered uniformly with an opaque, white colored material consisting of plastic, paint, or other durable material.

5. Any on premises sign which advertises an activity, business, produce, or service which has ceased operation, existence or producing, or which no longer carries a message for period of one hundred eight (180) days shall be removed at the end of said period, provided, however, that no such removal shall be required for any such sign maintained in good condition and whose display face is covered uniformly with an opaque, white colored material consisting of plastic paint, or other durable material.
6. All signs erected or maintained pursuant to the provision of this Article shall be erected and maintained in compliance with all applicable state laws and with the building code, electrical code, and other applicable city codes in the event of a conflict, the most restrictive provisions shall prevail.
7. Signs which display either constantly or in sequence, by electronically or electrically controlled changes in the same lamp bank, shall be permitted.
8. No sign shall occupy a parking space required under the minimum standards of the zoning code.

D. Prohibited Signs

The following signs shall be prohibited in the City of Tahlequah:

1. Signs with visible moving, revolving, flashing, or blinking components or visible mechanical movement, except for electronic or mechanical message board signs.
2. Signs imitating warning signals are prohibited. No sign shall display lights resembling the flashing lights customarily used in traffic signaled or in police, fire, ambulance, or rescue vehicles; nor shall any signs use the words, slogans, dimensional shape and size or colors of governmental traffic signals.
3. No signs, except traffic signs and signals, informational signs, wayfinding signs erected by a public agency are permitted within any street or public right-of-way.
4. Signs painted or attached to natural features (such as trees or rocks), utility poles (except for utility identification or similar purposes), or required fencing and/or screening are prohibited.
5. Fluttering ribbons and banners are prohibited in the right of way; banners shall otherwise be allowed in nonresidential districts when affixed to the ground.
6. Signs which obstruct the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare, are prohibited.
7. Portable signs shall be prohibited unless otherwise provided.
8. Off premises signs shall be prohibited or otherwise restricted in accordance with applicable federal or Oklahoma state law governing billboard restrictions along any road, street, or highway within the corporate limits of the City of Tahlequah designated as a scenic byway under the Oklahoma scenic byway program or national scenic byways program.
9. Signs with light sources not shielded by opaque materials such that the bulbs, floodlights, or tubes are visible off the property of which the sign is located.
10. Any sign that obstructs free ingress to or egress from a fire escape, door, window or other required exit, or that obstructs property ventilation or lighting.

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11. Abandoned signs.
12. Roof signs or any signs, which project above the building wall or parapet.
13. Portable signs, except as expressly permitted in Section 4.1.H.
14. Permanent freestanding signs on residentially zoned lots.
15. Signs using any sound or noise-making or transmitting device.

E. Exempt Signs

The following types of signs are exempt from requiring a permit, provided that all signs unless otherwise specified meet the requirements for the allowed location of signs. The signs below shall not contribute to the total number of signs or total area allowed.

1. A sign permit shall not be required for any sign sixteen (16) square feet or less in area unless such sign has electrical component or exceeds ten feet (10') in height.
2. Plaques or tablets, denoting names of buildings and date of erection or names of buildings or dates set out in any masonry surface.
3. Traffic and other signs erected and maintained by the city or other governmental agency, legal notices and all other similar signs required by law to be posted.
4. Decorations displayed in connection with civic patriotic, or religious holidays, and flags, emblems and insignia of political, civic, philanthropic, religious or educational organizations displayed for noncommercial purposed, provided the same are not located so as to obstruct the view of motorists.
5. One nonilluminated "for sale, "for rent", or "for lease" sign not exceeding six (6) square feet in area in residential districts and fifteen (15) square feet in nonresidential districts located not less than two feet (2') back from the street right-of-way, unless attached to the front wall of a building.
6. Bulletin boards for public, charitable or religious institutions when the same are located on the premises of said institutions and less than eighteen (18) square feet in area, or unless a portable sign less than thirty-two (32) square feet in area, and which shall not be located within a public right-of-way or otherwise obstruct the view of motorists.
7. Home occupation signs not exceeding four (4) square feet and attached flat to the wall of the building.
8. Temporary signs advertising political candidates or parties involved in public election, provided that such signs may not be erected before the applicable filing period and shall be removed within ten (10) days following such election; or signs advertising support or opposition to any other public election issue, provided that such signs shall not be erected more than thirty (30) days prior to an election on the issue and shall be removed within ten (10) days following such election. Such signs shall not be place in public right-of-way.
9. Temporary signs advertising events or activities of civic, philanthropic, religious, or educational organizations provided that such signs shall not be erected more than thirty (30) days prior to such event or activity and shall be removed within ten (10) days following such event or activity. Such signs shall not be placed in pubic rights-of-way.
10. Window signs and temporary signs shall be exempt from only the permit and licensing requirements specified hereunder and shall not be included in any consideration of sign area.
11. Signs not exceeding three (3) square feet in area that are customarily associated with residential uses, such as property identification names and numbers, signs on mailboxes or newspaper tubes and signs posted on private property warning the public against trespassing or danger from animals;

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12. Signs required or specifically authorized for a public purpose by any law, statute or ordinance, which may be of any type, number, area, height above grade, location, illumination or animation authorized by the law, statute or ordinance under which the signs are erected;
13. Official signs erected by state or local governments or their contractors or public utility companies to facilitate the construction, maintenance or operation of transportation facilities or to warn of dangerous or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices;
14. Flags of any nation or government displaying a noncommercial message, provided that such flags do not exceed forty (40) square feet and do not extend over a public right-of-way when unfurled and such flagpole is setback a distance from a property line that is at least equal to its height.;
15. Architectural features of buildings or works of art, if such features or works of art do not contain letters, trademarks, moving parts or lights and do not display a commercial message;
16. Any traffic control sign, such as "STOP" or "YIELD," located on public or private property that meets applicable governmental standards pertaining to such signs and does not display a commercial message;
17. Signs that otherwise would be considered collectibles and are erected to enhance the character of the structure or property it is located on;
18. Name plate signs of not more than two (2) square feet in area which are fastened directly to a building and do not project from the face of the building;
19. National holiday and community special event decorations that do not display a commercial message;
20. Signs on athletic fields and scoreboards intended for viewing on the property upon which the scoreboard is located;
21. Signs located inside buildings which are not placed there for the purpose of being visible to and read from the outside of the building and which are not legible from a distance of more than three (3) feet beyond the building in which such sign is located;
22. Instructional signs on City owned property erected by the City;
23. Wayfinding signs erected by a governmental agency.
24. Signs carried by a person and not set on or affixed to the ground;
25. Window signs; provided they meet the requirements in Section 4.1.J.
26. Typical real estate signs not exceeding three (3) square feet. If sign is greater than three (3) square feet the sign shall be meet the requirements in Section 4.1.J.

F. Sign Measurement

1. *Sign Area Calculation*

In computing the permitted display surface area for signs, the linear footage of an abutting secondary residential street shall not be combined with the linear footage of any collector street, arterial street, limited access highway or turnpike that is being used to calculate the permitted display surface area. Only one (1) side of a double-sided sign shall be included in the computation of display surface area. Double-sided signs may be separated, as long as the separation of the two (2) display surfaces does not exceed two feet (2'). Signs consisting of individual letters and/or elements will be measured as one (1) sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter.

2. *Sign Height Calculation*

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The height of any sign shall be determined by the distance between the topmost portion of the sign structure and the ground elevation at the base of the sign. The grade shall not be artificially changed solely to affect the sign height measurement. No sign shall be erected to a height greater than shown in the tables of this Section except for that of a permanent free standing sign located within one hundred and sixty-five feet (165') of the right-of-way line of an interstate highway or freeway of which may be erected to a height of not more than forty feet (40') above grade level of such thoroughfare.

3. *Sign Number Calculation*

In calculating the total number of signs on any property, both permanent and temporary signs shall be considered in the total, but signs enumerated in Subsection 4.1.J of this Article, window, banner, inflatable, and promotional signs are not included.

G. Location of Signs

1. *Location*

a. *Setback From Public Right-of-Way*

No sign shall be erected, constructed, placed, or project into or over any public right-of-way, except that in the DMX zoning district where projecting signs may extend into the right-of-way provided there is a vertical clearance of ten feet (10') above the sidewalk and the sign does not extend more than two-thirds (2/3) of the width of the sidewalk and in no case shall it protrude within two feet (2') of the curb line.

b. *Setback From Residential Districts*

No permanent freestanding signs, projecting signs, or wall signs shall be located within fifty feet (50') of any residentially zoned district. No flashing, twinkling, or animated signs shall be located within (200') feet of a residentially zoned district.

c. *Sight Triangle Clearance*

Except for signs erected or constructed for specific public purpose by governmental agencies, no signs shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five feet (25') along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection and fifteen feet back from the edge of driveway.

d. *Signage on Fencing*

No sign shall be erected on the outer side of a required fence or required screening wall.

e. *Separation*

All freestanding signs or projecting signs shall maintain a minimum separation of thirty feet (30') from any other freestanding sign or projecting sign.

f. *Sandwich Board Signs*

Sandwich Board signs shall be located along the lot frontage of the business for which it is advertising. The sign shall be placed in an area along the sidewalk that does not impede or impair pedestrian traffic.

2. *Specific Regulations for Off-premises Advertising Signs*

Off premises-advertising signs shall be allowed in the highway commercial corridor if they meet the following requirements:

a. *Permit Required*

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Prior to the erection, construction, or placement of an off-premises advertising sign a sign permit shall be obtained from the City. No sign permit shall be issued until a copy of the required state permit has been provided.

- b. Location
 - i. Said sign will be allowed in the highway commercial corridor, except in a recognized scenic byway of the State or Nation.
 - ii. Said sign shall be oriented to be primarily visible from those streets designated in the highway commercial corridor.
 - iii. Said sign shall be located no closer than one thousand two hundred linear feet (1,200') from a pre-existing off-premises advertising sign.
 - iv. Said sign shall not be located less than five hundred feet (500') from a Residential District or public park.
 - v. Said sign shall not be located, constructed, or extended into any public right-of-way.
 - vi. Said sign shall be located on a lot with a minimum of one hundred feet (100') of highway commercial corridor frontage.
 - vii. Said sign shall be set back twenty-five feet (25') from any property line and right of way line.
- c. Height
 - i. No sign shall exceed fifty feet (50') in height except a sign can be a maximum of sixty feet (60') in height when it abuts a highway which is elevated ten feet (10') or more above grade.
- d. Area
 - i. No sign shall contain more than two (2) sides, nor shall the total display surface area for each side exceed six hundred and seventy five (675) square feet. The two (2) sides shall face in opposite directions. "Opposite" shall, in addition to its ordinary meaning include V-shaped signs when not more than fifteen feet (15') separates the open side of the display surface.

H. Vehicle Signs

Vehicle signs on vehicles being operated in the normal course of business shall be allowed without reference to the regulations set forth in this Article, subject to the following limitations:

1. The vehicle shall have any required state licenses, license plates and must be operable.
2. The vehicle shall be regularly operated, which means that the vehicle must leave the property on a regular basis for a business purpose, and shall not be parked in excess exceeding business operation hours on a public right of way. This Paragraph shall not be construed to apply to a vehicle used on a regular basis for a business purpose that is taken home during nonbusiness hours and parked or stored on a private residential lot during nonbusiness hours.
3. The primary purpose of such vehicle shall not be for the display of signs. In determining whether the primary purpose of such vehicles is for the display of signs, the City shall consider the following criteria:
 - a. Whether the vehicle is regularly operated as set forth in Paragraph (2) above.
 - b. The location of the vehicle when it is parked on or near the property of the business for which the sign is provided. The purpose of this Subparagraph shall be to prevent the vehicle from being displayed on or near a major street or public right-of-way, unless no other alternative parking area is available.

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- c. Whether the vehicle is parked in a location that is not on or near the property of the business for which the sign is provided in a manner so as to constitute a billboard. The purpose of this Subparagraph shall be to prevent the vehicle from being displayed on or near a major street or public right-of-way without a valid business purpose, such as deliveries or repair work.
- 4. In the event it is determined that a vehicle’s primary purpose is the display of signs, the vehicle may be allowed on a temporary basis (maximum of 30 days) and said sign shall be maintained as provided in this Section.
- 5. Vehicle signs shall be magnetic, have vinyl graphics, be painted directly on the vehicle, or secured to the vehicle and may be animated.

I. Permanent Signs

1. *Permanent Signs Allowed in Agriculture and Residential Districts*

Signs in residential districts, shall comply with the standards set forth in Table 4.1.I.1 below. No more than one (1) sign, except as otherwise provided, shall be erected or maintained on any residential property at any one time.

| Table 4.1.I.1: Permanent Signs Allowed in Residential Districts | | | | |
|--|---|------------------|----------------------|---|
| Type of Sign | Number | Max. Area | Height (max.) | Setback |
| Instructional Sign | Minimum necessary to serve intended use | 6 square feet | 6 feet | N/A |
| Temporary Sign | See Sec. 4.1.J "Temporary Signs" | | | |
| Home Occupation Sign | 1 per permitted home occupation | 4 square feet | 4 feet | Same as building setback |
| Real Estate Sign | See Sec. 4.1.J "Temporary Signs" | | | |
| Subdivision ID Sign | 1 per entrance to subdivision or neighborhood | 36 square feet | 6 feet | 0 foot setback; if outside of visibility triangle |

2. *Permanent Signs Allowed in Residential Districts for Nonresidential Uses and Public/Institutional Districts*

- a. Permanent freestanding signs, which function as on-premises advertising signs and are located on lots used for institutional uses such as educational, religious or charitable institutions, may be constructed and maintained as long as such signs do not exceed thirty-six square feet (36 sq.ft.) of display surface area nor fifteen feet (15’) in height. However, for the purposes of this Subsection only, the maximum display surface area and height may be increased to the standards contained in Section 4.1.I.3 of this Article, through a PUD or by the special exception process, which shall be based upon the total linear foot of lot frontage. Illumination may be provided as long as it is made by constant light, does not exceed seventy foot candles (70 fc) as measured as a distance of two feet (2’) from the source of light.

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b. Wall signs shall be allowed in accordance with Section 4.1.1.3.

3. *Permanent Signs Allowed in Nonresidential Districts*

Signs in nonresidential districts, shall comply with the standards set forth in Table 4.1.1.3, below. No more than three (3) signs may be erected or maintained on any nonresidential property at any time, unless the property is located on a corner lot and has public entrances on two (2) or more public ways or where a building has both a front and rear public entrance, in which case, one (1) additional sign may be erected.

Table 4.1.1.3: Permanent Signs Allowed in Nonresidential Districts

| Type of Sign | Number | Max. Area | Height (max.) | Setback |
|---------------------------------|---|--|--|------------------------------|
| Building Sign – Wall | Any number; sign type shall not count toward total number of signs allowed. | 25% of signable area | Shall not exceed building roofline | N/A |
| Building Sign - Projecting | 1 per building; if building has 10 feet of street frontage | 60 square feet | Max. – Shall not exceed building roofline Minimum – 8 Feet | See Sec. “Location of Signs” |
| Freestanding -Permanent Sign | 1 per lot; or 1 per building if lot has multiple buildings | 2 square foot per 1 linear feet of street frontage | DMX, O-1, O-2, C1– 20 feet LMX, C-2, I-1, P– 25 feet CMX, C-3, I-2, I-3, P – 30 feet | |
| Freestanding -Joint Sign | 1 per lot | 2 square foot per 1 linear feet of street frontage | DMX, O-1, O-2, C1 -20 feet LMX, C-2, I-1– 25 feet CMX, C-3, I-2, I-3 – 30 feet | 5' |
| Changeable Copy Sign | 1 per lot | 20 square feet for 1 side, or 10 square feet for 2 sides | 20 feet | 10 feet |
| Instructional Sign | Minimum necessary to serve intended use | 6 square feet | 6 feet | N/A |
| Temporary Sign | See Sec. 4.1.J "Temporary Signs" | | | |
| Banners | See Sec. 4.1.J "Temporary Signs" | | | |
| Window Sign | 1 per window | 25% of window area | N/A | N/A |

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J. Temporary Signs

1. Permit Required

Prior to the erection or installation of any temporary sign, as described in this Section but not including exempt signs under Section 4.1.E, a sign permit shall be obtained pursuant to this Article.

2. Duration

Banner, inflatable, promotional signs may be displayed for a period of up to thirty (30) days, for not more than four (4) times a year, unless otherwise stated in this article. Banner, inflatable, promotional, signs shall be intended to be used for special events or circumstances including but not limited to grand openings, grand re-openings, and holiday sales.

3. Materials

Each temporary sign shall be constructed of durable material and must be affixed to the ground or structure so that it will remain in place.

4. Temporary Signs Allowed in Residential Districts

Temporary Signs in residential districts, shall comply with the standards set forth in Table 4.1.J.4, below.

| Table 4.1.J.4 : Temporary Signs Allowed in Residential Districts | | | | |
|---|---|---|---------------|----------------|
| Type of Sign | Number | Size | Height | Setback |
| Model Home Sign | 1 per lot on the same lot as model home | 4 square feet | 3' | 10' |
| Real Estate Sign | 1 per street frontage | 1 square foot per street frontage, not to exceed 36 square feet | 6' | 10' |
| Construction Sign | 1 per construction project | 32 square feet | 6' | 10' |

5. Temporary Signs Allowed in Nonresidential Districts

Temporary Signs in nonresidential districts, shall comply with the standards set forth in Table 4.1.J.5.

| Table 4.1.J.5: Temporary Signs Allowed in Nonresidential Districts | | | | |
|---|--------------------------------------|---|---------------|----------------|
| Type of Sign | Number | Size | Height | Setback |
| Banner, Inflatable, Promotional Sign | 1 per business | 50 square feet | 10' | 10' |
| Real Estate Sign | 1 per Street Frontage | 1 square foot per street frontage, not to exceed 36 square feet | 6' | 10' |
| Construction Sign | 1 per construction project | 32 square feet | 6' | 10' |
| Sandwich Boards Sign | 1 per business | 9 square feet | 3' | N/A |
| Window Sign | Any number not to exceed window area | 36 square feet | N/A | N/A |

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K. Maintenance, Illumination, and Landscaping

1. *Maintenance*

Every sign, including but not limited to, those signs for which permits are required, including supports, braces, and anchors, shall be kept in a state of good repair and be constructed and maintained in compliance with all building, electrical and fire prevention codes. For the purposes of this Section, state of good repair shall mean that there are no loose, broken, torn, or severely weathered portions of the sign structure or face. Signs shall be maintained in a safe, presentable, and good mechanical condition at all times and shall include the replacement of defective parts, painting, repainting, cleaning and other acts necessary for the proper maintenance of a sign.

a. Abandonment

Within two (2) years after abandonment, a sign shall be removed by the sign owner, property owner, property lessee, or other party having control over such sign. The City may remove the sign according to established abatement procedures. Abandoned signs are hereby declared a nuisance.

2. *Illumination*

No sign shall exceed an illumination of seventy foot candles (70 fc) as measured at a two-foot (2') distance from the source of the illumination. Further, electric message centers making use of incandescent light (as opposed to light emitting diodes) for purposes of illumination, must be set back an additional twenty feet (20') from the minimum setback otherwise applicable. Incandescent lamp message centers shall not be programmed to function as a strobe in an on-and-off display mode. Incandescent lamp message centers must utilize a dimming feature that will dim the lights during dark hours to no more than eighty percent (80%) of the normal watts used during daylight hours. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential lot.

3. *Landscaping*

The area within five feet (5') feet in all directions of any part of a permanent freestanding sign or subdivision ID sign shall be landscaped in accordance with Section 4.2 of this Ordinance. The area within ten feet (10') in all directions of any part of a temporary freestanding sign shall be kept clear of all debris and all undergrowth more than twelve (12) inches in height.

Section 4.2 Landscaping

A. Purpose

The purpose of these regulations is to establish minimum standards for the design, installation, and maintenance of landscaping to include the following:

1. Promote the reestablishment of vegetation in commercial areas for health, ecological and aesthetic benefits;
2. Encourage the preservation of existing trees;
3. Promote the compatibility between land uses by reducing the visual, noise and lighting impacts of specific development on users of the site and abutting properties;
4. To aid in establishing the ecological balance by contributing to air purification, oxygen regeneration, reduce soil erosion, and the volume and rate of discharge of stormwater runoff;

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5. Break up large expanses of pavement for appearance and reduce summer heat gain within parking and paved areas; and
6. To aid in conservation and stream bank protection.

B. Applicability

1. New Development

This Section shall apply to all new development, unless specifically exempted by Subsection 4.2.C.

2. Enlargement of Existing Development

This Section shall apply to all applications for building permits for projects that involve one or more of the following:

- a. An increase in the number of stories in an existing building or lot;
- b. An increase in the impervious lot coverage by more than two thousand square feet (2,000 sq. ft.);
- c. An increase of thirty percent (30%) or more in the square footage of building area or parking lot; or
- d. Where an existing parking area is altered or expanded to increase the number of spaces by a total of more than twenty (20), interior landscaping shall be provided on the new portion of the lot in accordance with Subsection 4.2.E.

C. Exemptions

The following development types and areas are exempt from the requirements of this Section:

1. Individual single-family and two-family dwellings on separate lots, where such residential use is the primary use on the lot;
2. New single-family detached and two-family subdivisions with four (4) or fewer lots and four (4) or fewer dwellings; and
3. Temporary uses approved pursuant to this Ordinance.

D. Landscaping Plan

A landscaping plan shall be submitted with the required site plan for multifamily, commercial, and industrial developments if plat is not required. If plat is required, the proposed landscaping area shall be shown on the preliminary plat followed by the landscaping plan submitted with the final plat. Upon receipt of the landscaping plan, the Director shall:

1. Approve the landscaping plan;
2. Approve the landscaping plan with conditions;
3. Deny the landscaping plan; or
4. Waive the landscaping requirements if it is determined that a suitable location of the landscape development is not available.

The landscaping plan shall contain the following:

1. The date, scale, north arrow, project name, and name of the owner and designer;
2. The location of the property lines and dimensions of the tract;
5. The centerline of existing water courses, location of drainage features, existing and proposed streets and alleys, existing and proposed utility easements and fire hydrants, existing and proposed sidewalks;
6. The location, size, and type (tree, shrub, ground cover, berms, or grass) of proposed landscaping and the location and size of the landscaped areas;
7. The location, size, and common name of any existing trees;
8. The location, size, specifications and type of irrigation system to be used; and
9. Schedule of installation of required landscaping.

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The approved landscape plan shall constitute an agreement between the City and the developer and shall become a legal instrument in enforcing landscaping requirements. Any disputes concerning final implementation of the site plan shall be resolved by referring to the City held landscape plan.

E. **Landscape Requirements – Nonresidential and Multifamily Developments**

1. *Coverage*

Where landscaping is required, there shall be a minimum of one (1) tree and five (5) shrubs for every two thousand (2,000) square feet of landscape area. The landscape area shall consist of all areas not occupied by structures, water bodies, water way, impervious areas, easements, and stormwater facilities. All other space not occupied by structures, water bodies, water ways, impervious areas, easements, and stormwater facilities shall have a ground cover living materials, including but not limited to grass and other ground-covering plant materials.

2. *Location*

- a. Along all public and private streets, trees shall be planted at fifty foot (50') intervals within ten feet (10') of the property line. Trees may be in clusters or dispersed evenly along the property's street frontage. Landscape materials within the sight distance triangle shall have a height not to exceed thirty inches (30").
- b. No requirement in this Section shall cause landscaping to be undertaken that would interfere with the operation or maintenance of utility facilities such as lines, pipes, or lighting.
- c. No requirement in this Section shall cause landscaping to be undertaken that would interfere with the operation or maintenance of a fire hydrant, storm siren, or other emergency services facility.

3. *Parking Lot Landscaping*

a. *Parking Lots Abutting Right-of-Way*

When required off-street parking and public right-of-way are contiguous, a landscaped buffer of three to five feet (3'-5') in width, built to the street right-of-way is required. The buffer area shall be landscaped with eight (8) shrubs or two (2) trees for every (50) linear feet of public right-of-way frontage. Wheel stops or six inch (6") curbing shall also be provided to prevent vehicle overhang.

b. *Parking Islands*

- i. A landscape island with a planting area at least ten (10') in width and eighteen feet (18') in length shall be provided on each side of all drives that provide access from the street to the property.
- ii. Developments requiring thirty (30) or more parking spaces shall allocate a minimum area equal to ten percent (10%) of the total area covered by the parking lot for landscaped islands. The area covered by the parking lot shall include parking stalls and vehicular circulation isles, but exclude driveways, access drives, loading areas, and similar features.
- iii. Landscaped parking islands shall be a minimum of ten feet (10') in width and a minimum of one hundred and eighty (180) square feet.
- iv. Parking islands shall have a minimum of one (1) tree and one (1) shrub per one hundred and eighty (180) square feet.
- v. All parking islands shall be protected by a raised six inch (6") curb.

c. *Distance Requirement*

No parking space shall be located more than seventy-five feet (75') from a landscaped area.

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d. **Parking Lot Landscaping Exempt for Certain Uses**

Vehicles sales and rentals shall be exempt from parking lot landscaping requirements, except for parking lot areas required in Section 4.4.

e. **Properties Abutting Residential Districts**

Whenever a nonresidential use is proposed adjacent to a Residential District, the nonresidential use shall provide a landscaped buffer of at least ten (10') feet in width within the nonresidential property, planted with a minimum of (1) medium to large evergreen tree and ten (10) shrubs for each thirty linear feet (30') or portion thereof of adjacent exposure. A berm or masonry wall may be placed within the landscaped edge in lieu of the required shrubs.

4. ***Tree Protection***

For every existing mature tree that is preserved in an area where landscaping is required, the developer shall be given credit of three (3) trees.

H. **Landscaping Requirements - Subdivisions**

1. When a plat is required for the development of a property, street trees shall be provided at a minimum of one (1) tree per fifty linear feet (50') of frontage along an arterial street.
2. The required trees shall be located either outside the arterial right-of-way or if in the arterial right-of-way, placed within five feet (5') of the abutting lot line. If landscape material is located five feet (5') into the arterial right-of-way the sidewalk may be serpentine to allow landscape material to be placed in pocket areas as long as the tree –to-pavement distance of four feet (4') is maintained.
3. For landscape material that is installed along the arterial street, a fence and landscape easement of at least five feet (5') in width shall be provided.

I. **Landscape Requirements – Signs**

1. Freestanding permanent signs and subdivision ID signs shall be landscaped a minimum of five feet (5') in all directions. Landscaping material shall be of size and quantity proportionate to the size and height of the sign and approved by the Director.

J. **General Standards**

1. ***Irrigation***

Required new landscaping shall be irrigated by one of the following methods

- a. Underground sprinkling system; or
- b. Drip system; or
- c. Hose attachment if in an industrial area.

2. ***Maintenance***

All plantings shall be maintained in a healthy and attractive manner by the property owner and any tenants. Maintenance shall include, but not be limited to, periodic mowing, watering, fertilizing, weeding, cleaning, pruning, trimming, spraying, and cultivating. In addition to these requirements, the property owner and any tenants shall be responsible for ensuring the subject site and adjacent right-of-way is maintained in an orderly and clean manner.

3. **Landscaping on Public Property**

- a. The City shall have the power to plant, preserve, spray, trim, or remove any tree, shrub, or plant on any parkway, alley, or public ground belonging to the City.
- b. It shall be unlawful for any person to cut or break any branch of any tree or shrub or injure in any way the bark of such tree or shrub growing on public property.

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4. *Planting Material Standards*

- a. All required new trees shall be a minimum of two inch (2") caliper.
- b. All new shrubs shall be a minimum of three (3) gallon size.

5. *Completion of Landscaping Requirements*

All required landscaping shall be completed in accordance with the approved site plan or subdivision plat, prior to the issuance of a certificate of occupancy for any building or final plat approval. Exceptions may be permitted and certificates of occupancy issued where weather conditions prohibit the completion of approved and required landscaping. In such cases, an extension period of no more than four (4) months maybe granted so long as a performance bond for not less than one hundred percent (100%) of the total estimated value of the landscaping is posted and a performance bond agreement is entered.

K. Recommended and Prohibited Trees and Plantings

1. The following trees are recommended, but not required, for planting to meet the standards defined in this Article:

Black Gum (*Nyssa sylvatica*)
Cypress, Bald (*Taxodium distichum*)
Elm, Lacebark (*Ulmus parvifolia*)
Golden Raintree (*Koelreuteria paniculata*)
Kentucky Coffee (*Gymnocladus dioica*)
Locust, Shademaster (*Gleditsia triacanthos* "Shademaster")
Locust, Thornless (*Gleditsia tracanthos inermis*)
Maple, Sugar (*Acer saccharum*)
Oak, Live (*Quercus virginiana*)
Oak, Red (*Quercus rubra*)
Oak, Sawtooth (*Quercus acutissima*)
Oak, Shumard (*Quercus shumardii*)
Oak, Water (*Quercus nigra*)
Oak, Willow (*Quercus phellos*)
Pine, Austrian (*Pinus nigra*)
Pine, Slash (*Pinus caribaea*)
Pistache, Chinese (*Pistacia chinensis*)
Willow (*Salix alba*)

2. The following shall not be considered as helping to fulfill the requirements of this Article:

- a. The following species of specifically prohibited trees
 - Ash
 - Black Locust
 - Boxelder
 - Bradford Pear
 - Female Cottonwood
 - Hackberry
 - London Plane
 - Mimosa
 - North American Elm
 - Poplar
 - Siberian or Chinese Elm
 - Silver Maple
 - Sweet Gum

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Sycamore
Tree of Heaven

Section 4.3 Screening and Fencing

A. Screening

1. Applicability

All multi-family residential and all nonresidential uses shall be required to provide screening as specified in this Section to block views of the specified features from any adjacent street or public open space or any adjacent property or public areas of a site. For purposes of this Section, public areas of a site include public parking areas, sales areas, outside eating areas, or other areas to which customers, clients, and guests are given regular access.

2. Refuse Collection

a. Location

Outdoor refuse collection receptacles shall not be located in a required front yard setback and shall be located at a minimum behind the front building line. Refuse collection receptacles shall not be located within any area used to meet the minimum landscaping or parking and loading requirements of this Ordinance, or be located in a manner that obstructs or interferes with any designated vehicular or pedestrian circulation routes of the site.

b. Screening enclosure

Each refuse collection receptacles shall be screened from view on all sides by a durable sight-obscuring enclosure consisting of an opaque fence or wall of between six feet (6') and eight feet (8') in height. Where the access to the enclosure is visible from adjacent streets or residential properties, the access shall be screened with an opaque gate.

c. Maintenance of Refuse Collection Receptacle

The lids of receptacles in screening enclosures without roof structures shall remain closed between pick-ups, and shall be maintained in working order.

3. Rooftop Equipment

All rooftop equipment shall be screened or concealed from view of adjacent properties and streets by the use of compatible and appropriate materials similar or complementary to the primary building materials.

4. Wall and Ground Mounted Mechanical Equipment and Utility Fixtures

Wall mounted mechanical equipment extending six inches (6") or more from the outer building shall be screened with sight obscuring enclosures constructed of one of the primary materials used on the structure, or sight obscuring fences or trees and shrubs. Ground mounted mechanical equipment shall be screened through the use of ornamental fences or screening enclosure, or through the use of trees and shrubs. Above-grade ground mounted utilities are prohibited on sidewalks in the downtown area.

B. Fencing

1. Design Standards for Fences and Walls

a. Fence Location in Residential Lots

Fences in residential districts may be constructed on property lines, in side yards, and rear yards. However, no fences higher than forty-eight inches (48") may be constructed in any front yard and shall not exceed seven feet (7') in height in any other yard.

b. Fences in Flood and Drainage Areas

No fences, other than an open split rail fence shall be constructed in any one hundred (100) year floodplain area or drainage easement unless the owner obtains written

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approval from the City of Tahlequah Floodplain Manager following their investigation of the proposed fence's impacts on drainage. Barbed wire shall only be allowed in agriculture zoned districts

c. Finished Side

The finished side of the fence or wall shall face outward, away from the development installing the fence or wall, with all braces and supports on the interior side of the fence, except those provided expressly for aesthetic purposes.

d. Prohibited Fencing

Barbed and razor wire fencing is not allowed within any zoning district unless otherwise specified.

e. Height Limitations

Fencing, unless a greater height is required for screening, shall not exceed seven feet (7') in height, except for fences for the following uses; public tennis courts, baseball fields, or other similar public recreation. For properties zoned industrial, fences may be eight feet (8') in height.

f. Materials

Where fencing or screening is required by this ordinance, such fencing and walls shall be opaque and shall be constructed of durable, easily maintained materials such as, but not limited to, masonry, vinyl, or treated, stained or painted wood sections.

g. Maintenance

All fences and screening shall be maintained by the property owner and tenant to ensure the fence continues to be effective for its intended purpose.

h. Sight Triangle

To allow for clear sight at all intersection of streets, driveways, or sidewalks, for a distance of twenty-five feet (25') back measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five feet (25') along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection or thirty feet (30') back from the intersection of street right-of-way and property lines, whichever is greater, and fifteen feet back from the edge of driveways shall be clear of all fencing or screening.

2. *Fencing and Screening Separating Zoning Districts*

For any nonresidential developments abutting an agriculture or residential zoned lot an opaque fence shall be installed and maintained along lot lines. The fence shall be a minimum of six feet (6') in height.

3. *Swimming Pools*

Swimming Pools shall be completely enclosed by a permanent wall or fence not less than four feet (4') in height. Each gate used for pool ingress and egress shall be affixed with a self closing mechanism.

C. Enclosure of Uses

Except as provided subsequently, no raw materials, waste materials, products, goods, machinery, or equipment shall be stored, displayed, operated or processed out-of-doors within two hundred feet (200') of a major street or highway or within two hundred feet (200') of any property in any Residential, Office, C1, DM, or IL District even though such activity may be permitted uses in such districts, unless such material or articles are so screened with an opaque fence or other material as not to be visible to an observing driver on such street or highway or standing on the ground in such district excluding the following items and uses:

1. Animals;
2. Boats;

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3. Construction equipment in use on construction sites;
4. Farm and garden equipment, in use in fields and gardens;
5. Gasoline pumps and similar service station equipment customarily not enclosed;
6. Household articles customarily stored or used out-of-doors;
7. Monuments and tombstones;
8. Motor vehicles;
9. Plants, living, including trees and shrubs;
10. Signs;
11. Sports, play and similar equipment, customarily used outdoors;
12. Structures attached to the ground or a building;
13. Transit vehicles;
14. Transportation equipment in operation of goods being transported; and
15. Trucks and trailers.

Section 4.4 Off-Street Parking and Loading Requirements

A. General Intent and Purpose

It is the intent of the off street parking and loading requirements that adequate parking and loading facilities be provided off the street for each use of land within the City. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.

B. Applicability

1. Every building hereafter erected or change of use of a building and every use of land hereafter established shall be provided with parking spaces as required in this Section and such parking spaces shall be made permanently available and be permanently maintained for parking purposes.
2. Where structural alterations or additions to a building provide additional floor space, or additional seats or additional beds, as the case may be, the parking requirements shall only apply to the additional floor space, seats, or beds.
3. Off street parking is not required in the DMX District.

C. Required Open Space

1. Off street parking or loading space shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.
2. The area required for off street parking shall be in addition to the yard areas herein required, except that the front yard required in any commercial district or industrial district may be used for uncovered parking area, and the front yard required in a residential district may be used for the uncovered parking for four (4) or less vehicles associated with a residential use when the area is surfaced with a pavement adequate to prevent the occurrence of mud and dust with continued use.

D. Location of Off-Street Parking

1. General

Except as otherwise expressly stated in this Section, required off-street parking areas shall be located on the same lot as the building or use they are required to serve.

2. Off-Site Parking

All or a portion of off-street parking for nonresidential uses and multifamily uses may be provided off-site. The off street parking areas shall be located within six hundred feet (600'), exclusive of street and alley widths, of the principal use and shall have direct access to a street

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or alley. Off-site parking areas are allowed only in zoning districts that permit non-accessory parking or in districts that allow the principal use to be served by the off-site parking spaces.

3. *Ownership*

The ownership of land on which the off street parking is provided shall be in accordance with Section 3.12.

E. **Design Standards**

1. *DMX Districts*

No parking shall be permitted within the front yard setback in the DMX District.

2. *Overhang Prohibited*

Vehicles shall not hang over property lines.

3. *Parking Lot Landscaping, Buffering, and Screening*

All parking lot landscaping, buffering, and screening shall comply with the applicable requirements in Section 4.2 and Section 4.3.

4. *Surfacing Requirements*

All required parking spaces, including driveways, and all parking spaces in front and exterior side yards shall be paved with a sealed surface pavement and maintained in such a manner that no dust will result from continued use. Substandard parking spaces and driveways in existence at the time of the adoption of this Ordinance shall be allowed to be continued. However, any addition to the substandard parking spaces or driveways shall conform to the surfacing requirement in this Section.

a. *Pervious Pavement*

Pervious pavement or pervious pavement systems, including pervious asphalt, pervious concrete, and modular pavers designed to funnel water between blocks, lattice, or honeycomb shaped concreted grids with turf grass or gravel filled voids to funnel water, resin-bound pervious pavement systems, or similar structured and durable systems are allowed as parking lot surfacing materials. Gravel, turf, or other materials that are not part of the structured system designed to manage stormwater are not considered pervious pavement or pervious pavement systems. Pervious pavement and pervious pavement systems must comply with the following:

- i. Materials must be installed and maintained in accordance with all applicable city standards. Damaged areas must be promptly repaired. Gravel that has migrated from a pervious pavement system onto adjacent areas must be regularly swept and removed.
- ii. Accessible parking spaces and accessible routes from the accessible parking space to the principal structure or use served must comply with building code.
- iii. Pervious pavement or pervious pavement systems are prohibited in areas used for the dispensing of gasoline or other liquid engine fuels or where other hazardous materials are used or stored.
- iv. Pervious asphalt, pervious concrete, or modular pavers may be used for drive aisles and driveways, but no other pervious pavement systems may be used in such areas unless expressly approved by the Director.

5. *Major Recreation Equipment*

No major recreation equipment shall be parked or stored on any lot in a Residential District except in a carport or enclosed buildings or behind the nearest portion of a building to a street, provided however, that such equipment may be parked anywhere on a residential premises not to exceed twenty-four (24) hours loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

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6. *Joint Parking Facilities*

Whenever two (2) or more uses are located together in common buildings, shopping centers or other integrated building complex, the parking requirement may be complied with by providing permanent common parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements in table Section 4.4.F.

7. *Stacking Requirements for Drive-Through Uses*

In addition to meeting the off-street parking requirements of this Section, drive-through facilities specified in the Table below shall comply with the following minimum stacking space standards:

| Table 4.4.E.7: Stacking Requirements | | |
|---|-------------------------|----------------|
| Use Type | Minimum Stacking Spaces | Measured From |
| Financial institution, with drive-thru | 4 | Teller window |
| Restaurant, with drive-thru | 8 | Pick up window |
| Pharmacy, with drive-thru | 4 | Pick up window |
| Car Wash, automatic | 6 | Bay entrance |
| Car Wash, self service | 3 | Bay entrance |
| Car Wash, full service | 4 | Bay entrance |

a. Location and Design

Stacking lanes must be located on the subject property. They may not be located within required driveways or drive aisles, parking spaces or loading areas, and shall not interfere with access to parking and ingress and egress from the street.

b. Dimensions

Each lane of stacking spaces must be at least eight feet (8') in width and at least eighteen feet (18') in length. Stacking lanes must be delineated with pavement markings.

8. *Striping Required*

Except for parking spaces for one-family or two-family dwellings, all parking spaces shall be clearly striped and the striping shall be maintained so it is visible.

9. *Lighting*

Lights used for illumination of parking areas and driveways shall be in conformance with Section 4.6.

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10. Parking Lot Space Dimensions

Parking layout dimensions for required off-street parking spaces and aisles shall be in accordance with or in proportion to the standards in the table below:

| Table 4.4.E.10: Parking Lot Dimensions | | | | | | |
|---|---------------|--------|----------------|---------------|--------|----------------|
| Angle (Degrees) | One-Way Aisle | | | Two-Way Aisle | | |
| | Width | Length | Aisle Width | Width | Length | Aisle Width |
| 45 | 9 | 18 | 11 | 9 | 18 | 18 |
| 60 | 9 | 18 | 14 | 9 | 18 | 19 |
| 75 | 9 | 18 | 18 | 9 | 18 | 20 |
| 90 (Straight) | 9 | 18 | 22 | 9 | 18 | 22 |
| 0 (Parallel) | 9 | 18 | 14 | 9 | 18 | 20 |

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F. **Amount of Off Street Parking Required**

1. Amount of off street parking and loading facilities shall be provided in all districts in accordance with the following schedule:

| Table 4.5.F: Number of Off-Street Parking Spaces Required | |
|--|--|
| USE CATEGORY | |
| Subcategory | Minimum Parking Spaces Required |
| Use Type | |
| ACCESSORY USES | |
| Accessory Buildings | None |
| Home Occupations | 2 spaces |
| Accessory Dwelling | 1 per bedroom |
| RESIDENTIAL USES | |
| Household Units | |
| Detached single family dwelling | 2 per unit |
| Two-family dwelling | 2 per unit |
| Multi-family dwelling | 1 per bedroom |
| Townhouse development | 1 per bedroom |
| Dwelling group | 1 per bedroom |
| Mobile home | 2 per unit |
| Group Quarters | |
| Boarding, dormitory, and rooming house | 1 per bed |
| Group Home | 1 per 2 beds, plus 1 per 100 sq. ft. of assembly area |
| Convalescent home, nursing home, or assisted living | 1 per 4 beds, plus 1 per employee |
| Mobile Home Park | 2 per unit |
| PUBLIC/INSTITUTIONAL USES | |
| Airport | |
| Art Gallery or Museum | 1 per 350 square feet |
| Library | 1 per 350 square feet |
| Community Services | |
| Cemetery | See Sec. 4.5.F.2 |
| Crematorium | 1 space per 400 feet of office area |
| Government administration and civic buildings | 1 per 300 square feet |
| Places of assembly | 1 per 4 seats in assembly area, or 1 per 100 square feet w/out seats |
| Hospital | 1 space per 2 beds |
| Child Care Facilities | |
| Day care center | 1 per 400 square feet |
| Home day care | 2 per unit, plus 2 |

ARTICLE 4
DEVELOPMENT STANDARDS

| USE CATEGORY | |
|--|--|
| Subcategory | Minimum Parking Spaces Required |
| Use Type | |
| PUBLIC/INSTITUTIONAL USES | |
| Education | |
| College or university | 1 per 400 square feet |
| Elementary | 1 per 800 square feet |
| Middle school or high school | 1 per 400 square feet |
| Trade school | 1 per 400 square feet |
| Parks and Open Space | |
| Utilities and Public Service Facility | |
| Minor | None |
| Major | None |
| Wireless Communication Facility | |
| Freestanding tower | None |
| Building or tower-mounted antenna | None |
| COMMERCIAL USES | |
| Animal Service | |
| Animal training | 1 per 400 square feet |
| Boarding or shelter | 1 per 400 square feet |
| Grooming | 1 per 400 square feet |
| Veterinary, small | 1 per 400 square feet |
| Veterinary, large | 1 per 400 square feet |
| Broadcast or Recording Studio | 1 per 300 square feet |
| Financial Services | |
| Financial Institution, with drive-thru | 1 per 300 square feet, plus stacking requirements |
| Financial Institution, without drive-thru | 1 per 300 square feet |
| Food and Beverage Services | |
| Bar/nightclub | 1 per 200 square feet |
| Bakery, retail | 1 per 300 square feet |
| Brewpub | 1 per 300 square feet |
| Fruit and vegetable market | 1 per 300 square feet |
| Restaurant, with drive-thru | 1 per 200 square feet |
| Restaurant, without drive-thru | 1 per 200 square feet, plus stacking requirements |
| Taproom | 1 per 300 square feet |
| Lodging | |
| Bed & breakfast | 1 per room, plus 1 per 300 square feet of meeting or restaurant area |
| Campgrounds and RV park | 1 per individual lot |
| Hotel or motel | 1 per room, plus 1 per 300 square feet of meeting or restaurant area |

ARTICLE 4
DEVELOPMENT STANDARDS

| USE CATEGORY | |
|--|---|
| Subcategory | Minimum Parking Spaces Required |
| Use Type | |
| COMMERCIAL USES | |
| Office | |
| Business or professional | 1 per 300 square feet |
| Medical, practitioner office, or clinic | 1 per 300 square feet |
| Research | 1 per 500 square feet |
| Recreation and Entertainment, Outdoor | |
| Amphitheater | See Sec. 4.5.F.2 |
| General outdoor recreation | See Sec. 4.5.F.2 |
| Golf course or driving range, lighted | Golf course: 6 per hole Driving Range: 1.5 per tee, plus 1 per 400 square feet of office area |
| Golf course or driving range, unlighted | Golf course: 6 per hole Driving Range: 1.5 per tee, plus 1 per 400 square feet of office area |
| Major entertainment facility | See Sec. 4.5.F.2 |
| Marina | 1 per boat slip, plus 1 per 300 square feet of office or retail area |
| Race track (auto, dog, horse) | See Sec. 4.5.F.2 |
| Zoo | See Sec. 4.5.F.2 |
| Recreation and Entertainment, Indoor | |
| Fitness and recreational sports center | 1 per 250 square feet |
| General indoor recreation | 1 per 250 square feet |
| Major entertainment facility | See Sec. 4.5.F.2 |
| Movie theater | 1 per 4 seats provided |
| Parking, non-accessory | None |
| Personal Services | |
| Dry cleaning and laundry service | 1 per 300 square feet |
| Funeral and mortuary service | 1 per 4 seats provided |
| General personal services | 1 per 300 square feet |
| Pharmacy or drugstore with drive-thru | 1 per 300 square feet, plus stacking requirements |
| Pharmacy or drugstore without drive-thru | 1 per 300 square feet |
| Studio, artist, or instructional service | 1 per 400 square feet |
| Retail Sales | |
| Alcoholic beverages, retail sales | 1 per 300 square feet |
| Building supplies and equipment | 1 per 500 square feet |
| Consumer shopping goods | 1 per 300 square feet |
| Consumer shopping goods, large | 1 per 500 square feet |
| Convenience store | 1 per 300 square feet |
| Mobile Food Vendors | See Sec. 4.5.F.2 |
| Horticulture nursery sales | 1 per 400 square feet |
| Marijuana Dispensary | 1 per 300 square feet |

ARTICLE 4
DEVELOPMENT STANDARDS

| USE CATEGORY | |
|---|---|
| Subcategory | Minimum Parking Spaces Required |
| Use Type | |
| COMMERCIAL USES | |
| Open-air market or flea market | See Sec. 4.5.F.2 |
| Self-service Storage Facility | 1 per 300 square feet of office area |
| Sexually oriented business | 1 per 300 square feet |
| Vehicles and Equipment | |
| Boat and/or RV storage | 1 per 50 vehicles stored |
| Boat, RV, trailer, mobile homes sales | 1 per 400 square feet of office area |
| Car wash | 1 per 500 square feet of building area |
| Fueling station | 1 per dispensing station, plus 1 per 300 square feet of building area |
| Parking structure | None |
| Truck stops | See Sec. 4.5.F.2 |
| Vehicles sales and rentals | 1 per 400 square feet of office area |
| Vehicle service and repair, major | 1 per 400 square feet |
| Vehicle service and repair, minor | 1 per 400 square feet |
| Vehicle towing services | 1 per 400 square feet |
| Vehicle storage, operable vehicles only | 1 per 400 square feet |
| INDUSTRIAL USES | |
| Industrial Service | |
| Fossil Fuel Storage | 1 per employee on largest shift |
| General industrial service | See Sec. 4.5.F.2 |
| Manufacturing and Production | |
| Assembly, light | 1 per 1,500 square feet |
| Manufacturing, light | 1 per 1,500 square feet |
| Manufacturing, heavy | 1 per 1,500 square feet |
| Major Marijuana Processing | 1 per 1,500 square feet |
| Minor Marijuana Processing | 1 per 1,500 square feet |
| Marijuana Growing | 1 per 1,500 square feet |
| Mining and Processing | |
| Minerals and raw materials | See Sec. 4.5.F.2 |
| Oil and gas | See Sec. 4.5.F.2 |
| Warehouse and Freight Movement | |
| Motor freight terminal | See Sec. 4.5.F.2 |
| Office warehouse | See Sec. 4.5.F.2 |
| Storage yard | See Sec. 4.5.F.2 |
| Warehouse | See Sec. 4.5.F.2 |
| Wholesale establishment | See Sec. 4.5.F.2 |
| Waste and Salvage | |
| Auto salvage yard | See Sec. 4.5.F.2 |

ARTICLE 4
DEVELOPMENT STANDARDS

| USE CATEGORY | |
|---|---------------------------------|
| Subcategory | Minimum Parking Spaces Required |
| Use Type | |
| INDUSTRIAL USES | |
| Scrap operations | See Sec. 4.5.F.2 |
| Recycling center(outdoor or indoor) | See Sec. 4.5.F.2 |
| Solid waste disposal | See Sec. 4.5.F.2 |
| AGRICULTURAL USES | |
| Animal Husbandry | See Sec. 4.5.F.2 |
| Community Garden | See Sec. 4.5.F.2 |
| Horticultural Nursery Production | See Sec. 4.5.F.2 |
| Agriculture, general | See Sec. 4.5.F.2 |
| Livestock sales | See Sec. 4.5.F.2 |

2. *Variable Demand Uses*

Parking requirements for uses that show “See Sec. 4.5.F.2” in Table 4.5.F have a widely varying parking demand, making it difficult to specify a single off-street parking requirements. The Director shall apply the off-street parking specified in Table 4.4.F for the listed use that is deemed most similar to the proposed use. The Director may require that the applicant provide a parking study for determination of off-street parking requirements.

3. *Maximum Number of Spaces Permitted*

Any use categorized as “commercial” or “industrial” in the above table shall provide no more than one hundred and twenty five percent (125%) of the minimum number of off-street vehicle parking spaces established in the table, unless an exception is approved by the Director under the following guidelines:

- a. The proposed use experiences unique characteristics of low parking turnover;
- b. The parking demand cannot be accommodated by on-street parking or joint parking agreements;
- c. The request is the minimum necessary variation from the standards.

G. **Handicapped parking**

1. *Handicapped Parking Space Dimensions*

Standard and van parking spaces shall consist of a rectangular area having dimensions of not less than nine feet (9’) by twenty feet (20’) and shall have an adjacent access aisle complying with the following:

- a. Access aisles serving standard parking spaces shall be five feet (5’) wide.
- b. Access aisles serving van parking spaces shall be eight feet (8’) wide.
- c. Access aisles shall extend the full length of the parking spaces they serve.
- d. Access aisles shall be marked so as to discourage parking in them.
- e. Two (2) parking spaces shall be permitted to share a common access aisle.
- f. Parking access aisles shall be part of the accessible route to the building of facility entrance.

2. *Amount of Handicapped Parking Spaces*

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- a. Residential Use: Handicapped parking for residential uses shall be provided at the rate of one (1) space for each dwelling unit that is designated for occupancy by the physically handicapped.
- b. Nonresidential uses: Handicapped parking spaces shall be provided for nonresidential uses at the following rate:

| Table 4.4.G.2.b: Required Handicapped Parking Spaces | | |
|---|--|--|
| Total Number of Parking Spacing | Minimum Total Number of Accessible Parking Spaces Required | Minimum Number of Van Accessible Spaces Required |
| 1-25 | 1 | 1 |
| 26-50 | 2 | 1 |
| 51-75 | 3 | 1 |
| 76-100 | 4 | 1 |
| 101-150 | 5 | 1 |
| 151-200 | 6 | 1 |
| 201-300 | 7 | 2 |
| 301-400 | 8 | 2 |
| 401-500 | 9 | 2 |
| 501-1000 | 2% of total | |
| 1001 or greater | 20, plus 1 for each 100 or fraction thereof, over 1000 | |

- c. Signage
A sign showing the international disabled symbol of a wheelchair shall designate each handicapped space. Each sign shall be no smaller than one foot (1') by one foot (1') and shall be located at the end of the space at a height between four feet and seven feet (4'-7'). The sign may either be wall mounted or freestanding. Van accessible parking space shall have an additional sign reading "Van-Accessible" mounted below the symbol of accessibility.
- d. Location
Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to the accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

H. Off-Street Loading

- 1. Every department store, freight terminal or railroad yard, hospital or sanitarium, industrial or manufacturing establishment, retail or wholesale store or storage warehouse establishment,

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or any similar use, which has, or is intended to have an aggregate gross floor area of 10,000 square feet or more, shall provide truck loading berths in accordance with the following table:

| Table 4.4.H.1 Off-Street Loading Requirements >= 10,000 Square Feet | |
|---|---------------------------|
| Square Feet of Aggregate Gross Floor Area | Required Number of Berths |
| 10,000 up to and including 16,000 | 1 |
| 16,001 up to and including 40,000 | 2 |
| 40,001 up to and including 64,000 | 3 |
| 64,001 up to and including 96,000 | 4 |
| 96,001 up to and including 128,000 | 5 |
| 128,001 up to and including 160,000 | 6 |
| 160,001 up to and including 196,000 | 7 |
| For each additional 36,000 | 1 additional |

- Every auditorium, convention hall, exhibition hall, sports arena, hotel, office building, restaurant, or any similar use, which has or is intended to have an aggregate gross floor area of 40,000 square feet or more, shall provide off-street truck loading or unloading berths in accordance with the following table:

| Table 4.4.H.2 Off-Street Loading Requirements >=40,000 Square Feet | |
|--|---------------------------|
| Square Feet of Aggregate Gross Floor Area | Required Number of Berths |
| 40,000 up to and including 60,000 | 1 |
| 60,001 up to and including 160,000 | 2 |
| 160,001 up to and including 264,000 | 3 |
| 264,001 up to and including 388,000 | 4 |
| 388,001 up to and including 520,000 | 5 |
| 520,001 up to and including 652,000 | 6 |
| 652,001 up to and including 784,000 | 7 |
| 783,001 up to and including 920,000 | 8 |
| For each additional 140,000 | 1 additional |

- Size and location of Off-Street Loading Spaces*
 Each loading space shall measure not less than thirty-five feet (35') by twelve feet (12'), and shall have an unobstructed height of fourteen and one-half feet (14 ½') and shall be made permanently available for such purpose, and shall be adequately improved and property maintained. Such facilities shall be so located that trucks using them shall not interfere with areas reserved for off-street parking nor project into any public right-of-way, and shall be adjacent to the building to be served. Any floor area provided by an addition to or structural alteration to a building shall be provided with loading space or spaces as set forth herein whether or not loading spaces have been provided for the original floor space. No required off-street loading area shall be eliminated or made inaccessible so long as the uses are continued for which it was originally required. To the maximum extent feasible, loading areas shall be located to the rear of a site and/or away from adjacent residential uses.
- Uses Not Specifically Mentioned*

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In the case of a use not specifically mentioned in this Section, the requirement for off-street loading facilities shall be the same as the uses mentioned in this Section that, in the opinion of the Director, has the most similar parking characteristics to the use mentioned in terms of loading classification.

I. **Nonresidential Uses in, or adjacent to Residential Districts**

1. Whenever off street parking lots for more than four (4) vehicles are to be located within or adjacent to a residential district the following provisions shall apply:
 - a. No parking area accessory to a nonresidential use in a residential district or abutting the front yard of a residential use, shall be permitted within a front yard setback.
 - b. The parking area shall be screened and landscaped as required by Section 4.2 and 4.3.
 - c. Driveways used for ingress and egress shall be confined to and shall not exceed twenty-four feet (24') in width, exclusive of curb returns;
 - d. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement as required in this Section and maintained in such manner that no dust will be produced by continued use;
 - e. Whenever lighting is provided, lighting shall conform to the lighting standards in Section 4.5 ; and
 - f. No sign of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the lot use. Only nonintermittent lighting of signs shall be permitted.

J. **Parking and Driveways in Residential Districts**

Parking in required front and exterior side yards shall be permitted only on driveways or other areas surfaced as required by this Section, and not more than one vehicle shall be parked in such yard per twenty feet (20') of abutting street. No driveway entrance serving a dwelling shall be more than forty percent (40%) of the lot frontage width, exclusive of curb returns. The maximum driveway width applies to the composite of all driveways if multiple points of ingress/egress are provided. Side yard and rear yard access shall not be allowed from major and minor arterial streets and collector streets. Automotive vehicles or trailers of any kind without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

Section 4.5 Exterior Lighting

A. **Purpose**

The purpose of this Section is to establish standards for outdoor lighting facilities that serve private developments; provide adequate lighting for the movement of people; and mitigate nuisance and glare to adjacent properties.

B. **Applicability**

All lighting for any type of residential or nonresidential development shall comply with the standards of this Section, unless exempted in Subsection C below.

C. **Exemptions**

1. Outdoor lighting used for public streets and right-of-ways;
2. Outdoor lighting used for public or private recreational activities;
3. Outdoor lighting used for individual single family dwellings;

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4. Public utility companies when working on public utility lighting for public utility purposes in utility easements;
5. Airport runway and aviation safety lights required by the FAA (e.g., warning lights on radio, communication and navigation towers);
6. Spotlighting of official flags, provided the spotlighting is contained within the area of the flag;
7. Outdoor lighting used for emergency equipment and work conducted in the interest of law enforcement or for public health, safety, and welfare;
8. Outdoor lighting in association with special events approved by the City;
9. Lighting fixtures with a light output of not more than 1,000 lumens; and
10. Temporary holiday light displays.

D. Lighting Plan Required

In order to ensure safety and compliance with the standards in this Section outdoor lighting plans demonstrating compliance with the standards shall be required with the submittal of a site plan. If no outdoor lighting is proposed, a note shall be placed upon the face of the site plan indicating that outdoor lighting is not required. The submitted lighting plan shall include the following:

1. A scaled drawing of the site with all outdoor lighting locations shown;
2. Fixture specifications, including catalog cut-sheets or generic standards;
3. Pole type and height of fixtures from base of the pole;
4. Lamp type and size; and
5. Fixture mounting and orientation.

E. General Lighting Standards

1. *Light Pole Placement*

Light poles shall not be placed in street right(s)-of-ways or utility easements adjacent to street right(s)-of-way, except by the City of Tahlequah.

2. *Site Perimeter Restrictions Abutting Residential Districts*

Illumination of the perimeter of the site shall be reduced in intensity measured in foot candles (fc) at three feet (3') above grade at a rate of 0.5 fc.

3. *Shielding*

Light sources shall be concealed or shielded with luminary cut-offs not exceeding an angle of ninety degrees (90°) to minimize the potential glare and unnecessary diffusion on adjacent property.

4. *Allowable Heights*

Allowable height of light fixtures shall be measured from the light-emitting surface to the base of the pole location as follows:

- a. Maximum height of sixteen feet (16'), within fifty feet (50') of agriculture or residentially zoned districts, or public right-of-ways;
- b. Maximum height of twenty feet (20'), within fifty-one feet (51') to two hundred and fifty feet (250') from agricultural or residentially zoned districts, or public right of way;
- c. Maximum of thirty-five feet (35'), if located a distance greater than two hundred and fifty feet (250') from agricultural or residentially zoned districts, or public right of way.
- d. Maximum fixture height shall not exceed thirty-five feet (35').

5. *Light Level Measurements*

Lights levels shall be measured with a direct-reading, portable light meter calibrated within the last year by an independent laboratory regularly engaged in the calibration of such

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instruments. The meter’s sensor shall be located at the top of the visual screening fence on the property line (or at a height of three feet (3’) above the surrounding local grade if there is no fence), aimed towards the subject property in a horizontal position. Readings shall be recorded after the value has stabilized. Measurements are to be made after establishment of darkness with the light sources to be measured illuminated, and then with those light sources extinguished. The difference between the two (2) readings will then be compared to the maximum allowed illumination at the property line. In this way, contributions to light levels by the moon and other ambient light sources are eliminated and the light intensity from the sources in question can be determined.

Section 4.6 Transportation & Access

A. **General Intent and Purpose**

The purpose of this Section is to support the creation of highly connected transportation system within the City in order to provide choice for drivers, bicyclists, and pedestrians; increase effectiveness of municipal service delivery; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as employment, schools, parks, and shopping centers; reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; mitigate traffic impacts of new development; and free up arterial capacity to better serve regional long-distance travel needs.

B. **Street Standards**

All streets shall meet the minimum requirements in the City of Tahlequah Subdivision Regulations.

C. **Street Connectivity**

Within each residential development, accommodations shall be made for the safe and efficient movement of vehicles, bicycles, and pedestrians. The circulation system should provide multiple connections to and between local destinations such as parks, schools, and shopping areas. These connections should allow movements of vehicular (motorized and non-motorized) and pedestrian traffic between and through separate developments rather than form barriers between them.

D. **Connections to Vacant Lands**

Where new development is adjacent to vacant land, all modes of transportation and access ways in the development’s proposed street system shall continue through the boundary lines with a minimum of two (2) access points per half mile to provide for orderly subdivision of such adjacent vacant land.

E. **Street Access**

No principal building or residence shall be constructed on a lot that does not abut a public street, except for development which property owners or a homeowner’s association is chartered with the responsibility of maintenance of private streets and access ways.

F. **Access to Adjacent Properties in Nonresidential Developments**

All nonresidential developments shall allow access to and from adjacent properties to encourage reduced access points and curb cuts. In cases where mutual access is impractical the Director may waive this requirements. The mutual access easement may be required prior to the issuance of building permit.

G. **Sidewalks Required, Fee-in-lieu**

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In areas of all new developer or redevelopment, sidewalks shall be installed on both sides of all arterial, collector and local streets, sidewalks shall be constructed to meet the requirements of the City of Tahlequah Subdivision Regulations. The developer or applicant for such new develop or redevelopment may request an exemption from the sidewalk construction requirements by filing a written request to the Director at the time the applicant submits a building permit application. The Director may approve a fee instead of installation of a sidewalk if the Director determines that one or more of the following conditions occur:

- a. On the date the property was subdivided, the land development regulations did not include a sidewalk requirement (September 5, 2020)
- b. A stormwater drainage ditch or similar public utility facility prevents the installation of the sidewalk, and neither the sidewalk nor the facility can be reasonably relocated to accommodate both the sidewalk and the facility;
- c. Other unusual circumstances that make the installation of the sidewalk unreasonable or inappropriate.

The amount of the fee shall be the actual cost of the sidewalk construction; established in the City of Tahlequah Master Fee Schedule.

H. **On-Site Pedestrian Facilities**

All nonresidential developments shall provide a site plan that includes all proposed pedestrian facilities. On-site pedestrian facilities shall connect from public sidewalks to public building entrances. Developments that contain more than one (1) building shall provide hard surface pedestrian facilities between the principal entrances of buildings.

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DISTRICT SPECIFIC STANDARDS

Section 5.1 Planned Unit Developments (PUDs)

A. Purpose

The Planned Unit Development (PUD) is intended to provide flexibility and encourage innovation in design, and promote more economical and efficient use of land. It is further intended to provide a variety of housing types and preserve the unique features of a site while ensuring the project will be compatible with the surrounding neighborhood. The PUD may be used for parcels of land that are under common ownership and are to be developed according to a Development Plan.

B. Uses Permitted.

A PUD may include one or more of the uses permitted by right or by special exception within the general zoning district or districts within which the PUD is located, provided however:

1. If any part of the PUD is located within a Residential District, the permitted uses may additionally include one or more of the dwelling types contained in any residential district;
2. The permitted uses, whether principal or accessory, may be located anywhere throughout the development without regard to general zoning district boundaries.

C. Bulk and Area Requirements

1. *Residential Intensity*

The development plan for the PUD may depart from the dwelling type, lot area per dwelling unit, lot width, yard, and coverage requirements of the district or districts in which it is located provided that:

- a. The total number of dwelling units to be built on the tract shall not exceed the number which could be built on the tract under the district provision, counting one-fifth (1/5) of the tract area for streets regardless of the area actually used for streets.
- b. The total area of the tract covered by structures shall not exceed the sum of the areas that would be permitted under the district provisions, counting one-fifth (1/5) of the tract area for streets.

2. *Nonresidential Intensity*

The nonresidential intensity shall not exceed the maximum permitted floor area ratio (FAR) that would be permitted under the respective district provisions, counting one-fifth (1/5) of the tract area for streets, regardless of the area actually used for streets. Where floor area ratio is not specified, a floor area ratio of .75 shall apply.

3. *General Requirements*

Within a PUD, minimum requirements for lot width, frontage, yard setbacks, lot coverage, and heights shall be listed in detail as development standards in the Development Plan.

4. *Livability Open Space*

Within a residential area of a PUD, livability open space shall be provided per dwelling unit as follows:

- a. RS District: 4,000 square feet per dwelling unit
- b. RM District: 1,200 square feet per dwelling unit

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If the residential area includes both RS and RM Districts the aggregate total per dwelling unit shall be applied. Required livability open space may be provided on the lot containing the dwelling unit or units on which computed, or in common areas, common livability open space shall be designed and located to be accessible to the dwelling units it is intended to serve.

D. Landscaping Screening and Fencing

1. The minimum landscaped areas in PUDs for nonresidential development areas shall be required as follows:

- a. Office Use: 15% of net developable area
- b. Commercial Use: 10% of net developable area
- c. Industrial Use: 10% of net developable area

2. Perimeter Requirements

Within a PUD, perimeter requirements for screening, fencing, and setbacks necessary to assure compatibility with adjoining and proximate properties, shall be prescribed and set forth as development standards of the approved planned unit development and shall be incorporated within the required subdivision plat.

E. Signs

Signs in a PUD shall be governed by this Ordinance, but may be modified by the express terms of the PUD.

F. Parking and Loading

Within a PUD, off-street parking and loading requirements shall meet the minimum requirements of this Ordinance as specified in Table 4.4.F for each use within the PUD.

G. Procedure

Procedures for establishing Planned Unit Developments shall be in accordance with Section 7.5 of this Ordinance.

Section 5.2 Floodplain District

A. Floodplain Districts

a. Applicability

This Section shall apply to all areas of special flood hazard within the jurisdiction of the City of Tahlequah as shown on the most recent Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

b. Compliance

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of the City of Tahlequah Municipal Code of Ordinance Chapter 12-5, Flood Damage Prevention.

Section 5.3 Historic Preservation District

A. Historic Preservation

Historic Preservation Districts shall be governed by Article 6 of this Ordinance.

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Section 5.4 Downtown Mixed-Use

A. General Provisions

Development within the downtown mixed-use district shall comply with the following design standards. Development shall include all new construction and existing structures if the existing structure is enlarged or remodeled by more than 50%. The provisions of this Section shall not apply to structures that are contributing resources for historic preservation purposes and the provisions herein would eliminate said contributing resource.

B. Site Layout

1. *Parallel to Lot Lines*

New construction shall be built to lot lines to reflect the historical orientation of nonresidential structures in the downtown. Structures shall not be oriented at an angle to the lot lines.

2. *Building to Sidewalk Edge*

A minimum of seventy percent (70%) of each building façade along the street edge shall be built to the property line.

D. Parking

1. To the greatest extent feasible, on-site parking shall be located behind buildings at ground level or completely above or below the first floor of the building.

2. Parking shall be accessed from the rear of the property on parcels with alleys.

3. For parcels without alley access, driveways serving on-site parking shall not be allowed on arterial streets.

4. If a new parking area is approved adjacent to an existing building, a brick screen wall, or similar material compatible with adjacent building, shall be used to avoid the appearance of missing teeth along the street. The screen wall shall be in line with the front walls of adjacent buildings and shall not exceed three feet (3') in height. An upper story over the parking lot or an upper façade to give the appearance of a continuous building may be considered.

E. Exterior Building Materials

1. Brick shall be the primary building material, along with masonry accents as traditionally found in the downtown area.

2. Exterior Insolated Finished Systems (EIFS) and metal shall not be used as a primary exterior building material.

F. Ground-Floor Pedestrian Interest

The ground floor of a building shall encourage pedestrian activity by maintaining a high window-to-wall ratio. On the façade facing the street, at least forty percent (40%) of the wall that is between three and ten (3'-10') above grade shall consist of glazing.

G. Upper-Floor Distinction

The distinction between the street level and upper levels should be expressed through detailing, changes in material, and fenestration.

Section 5.5 Office, Commercial, Mixed-Use Districts, & Public Districts

A. General Provisions

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Development within the office, commercial, and mixed-use districts shall comply with the following design standards. Development shall include all new construction and existing structures if the existing structure is enlarged or remodeled by more than fifty percent (50%).

B. Exterior Building Materials

All new construction or renovation of existing structures in these districts shall have those vertical exteriors that are facing a public or private street constructed of, but not limited to: masonry, concrete panels, glass block, glass curtain walls, Exterior Insulated Finished Systems (EIFS), or stucco. EIFS, however, shall not be used as a primary exterior building material. Metal finishes, wood, plastic, and other masonry materials may be considered and approved by the Director through the site plan review process. These approved materials are not required on exterior facing rear alleys, or on portions of the building not facing a public street. All façade designs and materials shall be approved through the site plan process. Metal, canvas, wood, glass, plastics, or other similar materials may be used only in doors, windows, signs, canopies and awnings.

C. Wall Articulation

All sides of the façade, except the rear of the structure, unless the rear façade abuts a public street, where said façade is over fifty feet (50') in length the façade shall include architectural features a minimum of every fifty feet (50'), to minimize the appearance of black walls. Such changes in walls may include texture, masonry, patterns, windows, colonnade, columns, or pilasters.

Section 5.6 Industrial Districts

A. General Provisions

Development within the industrial districts shall comply with the following design standards. Development shall include all new construction and existing structures if the existing structure is enlarged or remodeled by more than fifty percent (50%)

B. Exterior Building Materials

All new construction or renovation of existing structures in these districts that are located on a lot adjacent to an arterial street or highway shall have those vertical exteriors that are facing the arterial street or highway constructed of but not limited to: masonry, concrete panels, glass block, glass curtain walls, Exterior Insulated Finishing Systems (EIFS), or stucco. EIFS, however, shall not be used as the primary exterior building material. Metal finishes, wood, plastic, and other masonry material may be considered and approved by the Director through the site plan review process. These approved materials are not required on exterior facing rear alleys, or portions of the building not facing an arterial street or highway. All façade designs and materials shall be approved through the site plan process. Metal canvas, wood, glass, plastics, or other similar materials may be used only in doors, windows, signs, canopies, and awnings.

Section 5.7 Downing Overlay District

A. General Provisions

The Downing Overlay District is intended to encourage a mixed-use environment that serves both residential and commercial uses. Additionally, the bulk and area requirements for the district are designed to be flexible, allowing for the continued use of non-conforming structures and encouraging buildings to be constructed closer to the street. The district is established as recommended in the Comprehensive Plan.

ARTICLE 5
DISTRICT SPECIFIC STANDARDS

B. Uses Allowed

The uses allowed in the DMX and LMX districts as shown in Table 2.3 shall be the uses allowed in the Downing Overlay District.

C. Mixed-Use Requirement

When residential development is proposed the residential development shall be collocated with a nonresidential use as set forth in Table 2.3.

D. Bulk & Area Requirements

The bulk and area requirements for the Downing Overlay District shall be as follows:

| Table 5.7.D: Downing Overlay Bulk & Area Requirements | | | | | | | | | |
|--|---------------------------|------------------------|------------------------|-----------------------------------|--------------------|--|--|-------------|--------------------------|
| District | Lot Dimensions | | | Minimum Setback Requirements (ft) | | | | Height (ft) | Lot Area (sq.ft.) Per DU |
| | Min. Lot. Area (ac/sq ft) | Min. Lot Frontage (ft) | Floor Area Ratio (FAR) | Front | Exterior Side Yard | Interior Side Yard & Rear Yards | | | |
| | | | | | | Abutting property in a nonresidential district | Abutting property in an R or AG district | | |
| DO | - | 50 | 5 | - | 10 | - | | 50 | 4,500 |

E. Design Standards

Design of structures within the Downing Overlay District shall be in conformance with Section 5.5.

F. Conformance with Other Provisions

The Downing Overlay District is intended to be an overlay zoning district and the regulations imposed by such District shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel or area. Where there is conflict between the underlying zoning district and the provisions in this Section, the provisions in this Section shall supersede.

ARTICLE 6
HISTORIC PRESERVATION

ARTICLE 6
HISTORIC PRESERVATION

Section 6.1 General Provisions

A. Statement of Purpose

This Article is designed to allow for designation of, and to subsequently protect, properties which have been determined architecturally, archaeologically, culturally or historically significant to the City, and to allow interested parties the opportunity to arrange for the preservation of such properties. The City hereby declares that the historical, architectural, cultural, and aesthetic features of the City represent some of the finest and most valuable resources of the City and such resources are the embodiment of the heritage of the people of Tahlequah. Therefore, it is hereby declared that the purpose of this Article, to be known as the "Historic Preservation Ordinance," shall be as follows:

1. To promote the designation of historic properties and landmarks and the creation of historic district for the educational, cultural, economic and general welfare of the public;
2. To strengthen the City's economic base by the revitalization, preservation, protection and enhancement of those structures and districts which reflect outstanding elements of the City's cultural, artistic, social, economic, political, architectural, historic or other heritage;
3. To promote the City's outstanding historical or architectural structures or districts by promoting civic pride in the history and accomplishments of the past;
4. To stabilize and improve the aesthetic and economic vitality and values of such structures and districts.

B. Creation of Historic Preservation Commission

1. *Historic Preservation Commission Created*

There is hereby created the Historic Preservation Commission of the City.

2. *Membership*

Its members shall be appointed by the Mayor and approved and confirmed by the Council or as provided by the Charter of the City. In making appointments to the Commission, the Mayor and Council shall make an attempt to maintain a balance of interest and skills on the Commission by assessing the individual qualifications of the candidates including, but not limited to, their knowledge and interest in preservation-related fields such as architecture, history, archaeology, planning, design, landscape architecture, or law. All members shall have knowledge of, or interest in, historical preservation and will have demonstrated their civic interest and knowledge of the history of the community.

3. *Ward Representation*

At least one (1) member of the Historic Preservation Commission shall be selected from each of the four (4) wards for the City with one (1) member thereof to be selected from the City at large, regardless of the ward in which he or she resides.

4. *Terms*

Five (5) members shall be appointed to the Commission, with staggered terms initially. Two (2) members are to be appointed for one (1) year; two (2) members for two (2) years; and one

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(1) member for three (3) years. All future appointments are to be for three (3) years. Any appointment to fill a vacancy caused by death, resignation or removal is to be for the unexpired term of the departing member.

5. *Removal*

Any member of the Commission may be removed from office without cause upon majority vote of the City Council. Any member of the Commission who misses three consecutive regular meetings of such board shall be automatically removed from office without further procedure.

C. Meetings and Rules

The Commission shall be empowered to adopt rules for the conduct of its business. The Commission shall elect a chairman and a secretary. All meetings of the Commission shall be in compliance with the Oklahoma Open Meetings Act. Any person or his duly appointed representative shall be entitled to appear and be heard on any matter before the Commission. The Commission shall keep a record of its proceedings, a copy of which shall be filed for public view in the office of the City Clerk. No business of the Commission may be conducted unless a quorum of not less than three (3) members is present. The Commission shall meet at least four (4) times per year.

D. Staff

The Planning and Development Department shall provide staff to the Historic Preservation Commission to assist in the performance of their duties.

E. Commission Powers and Duties

Unless otherwise specified in this Article, the duties of the Commission include, but may not be limited to, the duty to:

1. Prepare or cause to be prepared a comprehensive inventory of the historical architectural and archaeological and cultural resources within the City.
2. Prepare or cause to be prepared a general historical preservation plan to be recommended for incorporating in the plans of the City.
3. Prepare findings of fact, relating to the recommendation for designation of historical, architectural, archaeological or cultural resources.
4. Promulgate Design Guidelines as are necessary for the review and approval of applications for Certificates of Appropriateness and to inform property owners, and the general public of those guidelines. Design Guidelines shall relate to the significant characteristics of the Historic Resource(s) being proposed for "HP" district designation, the Design Guidelines shall be developed by the Commission and shall include review and input of the property owner(s) or agents and other parties directly affected by the proposed designation. Such Design Guidelines shall be subject to approval and adoption by the City Council, upon the holding of a public hearing by the Planning Commission and their recommendation of the Commission and Planning Commission.
5. Prepare findings of fact pursuant to action taken by the Commission related to the Certificate of Appropriateness.
6. Make recommendations to the City Council concerning grants from Federal and State agencies and private groups, and individuals, and the utilization of budget appropriations to promote the preservation of historical, architectural, cultural and archaeological resources.

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7. Make recommendations to the City Council for the need for employing staff making contracts with professional and technical experts as may be required for the furtherance of the Commission work.
8. Increase public awareness of the value of historic, cultural, architectural, and archaeological resources by developing and participating in a public information program and by recommending the updated preservation program and by the giving of advice to owners or residents of such resources as to the problems and techniques of preservation work and further, by placing monuments and markings at historical sites as they are located by the Commission.
9. Make comments and recommendations concerning actions undertaken by our City or action of other governmental units with respect to the effect of such action upon historical, cultural, architectural, or archaeology resources.
10. Conduct a periodical review of the status of designated landmarks and Historic Preservation Districts and provide periodical reports on the findings of said review, along with any resolution for action as considered appropriate to the City Council.

F. **Ordinary Maintenance or Repair**

Nothing in this Article shall be construed to prevent ordinary maintenance or repair of any structure except exterior change.

G. **Maintenance of Landmarks and Historic Sites; Building Code**

1. Every person in charge of an improvement on an historic site or a Historic Preservation District shall keep in good repair all of the exterior portions of such improvement and all interior portions which, if not so maintained, may cause, or tend to cause, the exterior portions to fall into a state of disrepair. This Section shall be in addition to all other provisions of law or local ordinances or codes requiring buildings or structures to be well maintained.
2. Insofar as they are applicable to a landmark, historic site or improvement in a Historic Preservation District, and portions of the building code may be varied or waived, on application, by the Building Official, provided such variance for waiver does not endanger the public health or safety.
3. The Historic Preservation Commission shall utilize, hereinafter, the "Secretary of the Interior's Standards" for rehabilitation; these standards are as follows:
 - a. Every reasonable effort shall be made to provide a compatible use of the property which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.
 - b. The distinguishing original qualities or character of a building, structure, or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - c. All buildings, structures and sites shall be recognized as products of their own time. Alteration that have no historical basis which seek to create an earlier appearance shall be discouraged.
 - d. Changes which may have taken place in the course of time are evidence of the history and development of the building, structure or site and its environment, these changes may have acquired significance in their own right, and this significance shall be recognized and respected.

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- e. The distinctive stylistic features or examples of skilled craftsmanship which characterized a building structure or site shall be treated with sensitivity.
 - f. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material being replaced should be similar in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - h. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
 - i. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood, or environment.
 - j. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- H. **Uses Adjacent to Historic Preservation Districts**
Any use permitted in a residential, commercial, business, or industrial district while lying adjacent to, or across the street from structures or areas falling within the Historic Preservation District shall be screened or designed, as appropriate so as to minimize its effect upon such structure or area. This required screening or design is specifically made applicable to all property use coming into existence after the time of the enactment of this Article (February 6, 1995).
- I. **Property Owned by Public Agencies**
The requirements, provisions, and purposes of this Article shall apply to all property owned by the City or any other public agency, provided however, designation pursuant to this Article shall not affect the validity of prior action of the City Council approving plans, programs or authorization for public trust, agencies or authorities of the City without an express amendment of such plan, program or authority.

6.2 Historic Preservation District – Zoning Map Amendment

- A. **Historic Preservation Zoning District**
The Historic Preservation District and its regulations may be applied to property located in any other zoning district, whether residential, commercial, industrial or agricultural, in accordance with the provisions of this Article. The Historic Preservation District is intended to be an overlay zoning district and the regulations imposed by such District shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel or area. Where there is conflict between the underlying zoning district and the Design Guidelines of the Historic Preservation

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District, the Historic Preservation District shall supersede. All provisions of this Ordinance, including the definitions contained therein, shall be applicable to the district.

B. **District Identification**

Tracts, buildings, sites or areas designated by the Commission as being within the Historic Preservation District shall be identified and designated as “HP” on the Official Zoning Map of the City and in other official writings.

C. **District Regulations**

The designation ordinance shall prescribe the significant exterior architectural features; the types of construction, alteration demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; height and area regulations; sign regulations; and parking regulations.

D. **General**

The City of Tahlequah may establish, amend, or repeal an “HP” Historic Preservation zoning district according to the following criteria and procedures, provided however, Design Guidelines for a proposed HP zoning district shall be adopted prior to or concurrent with the mapping of the HP zoning district.

E. **Procedures**

Applications shall follow the procedures as described in Section 7.4.D for regular zoning map amendments, provided however, that the Historic Preservation Commission shall hold a public hearing and prepare a report and recommendation on the proposed HP zoning map amendment. The report shall be transmitted to the Planning Commission before its public hearing on the proposed zoning map amendment.

F. **Report to be Submitted**

As a part of every such proposed designation, or proposed amendment of a designation, the Commission shall state in written form to the Mayor and City Council the attributes of the area of property proposed for designation or the degree to which such attributes related to and comply with the review criteria set forth in this Article. In addition, the Commission shall state in writing:

1. Whether or not, in its review, designation would be in compliance with prior actions of the City Council approving plans, programs or authorizations for public trusts, agencies or authorities of the City.
2. The proposed design guidelines for applying the criteria for a review of Certificate of Appropriateness to the district proposed for designation.
3. The recommendation as to the appropriate height and area regulations, sign regulations, and parking regulations necessary or appropriate to the preservation of the district proposed for designation.

G. **Authority to Recommend Amendment or Repeal**

The Commission shall have the authority to recommend the amendment or repeal of any designation of a site, structure, building, district, or monument in the same manner and according to the same procedure as provided herein for the original designation.

H. **Interim Control**

No building permit shall be issued by the City for alteration, construction, demolition, or removal of any property or structure within a nominated Historic Preservation Districts from the date of the meeting of the Commission at which an application form is first presented until its final

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disposition by the City Council unless such alterations, removal or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare and safety. In no event shall the delay be for more than one hundred and eighty (180) days.

I. **District Designation; Criteria**

A site, structure, building, district or monument may be designated as a Historic Preservation District and thus may be included within the Historic Preservation District if such possesses the following attributes within the categories below:

1. *Historical, Cultural Category*

- a. Such has significant character, interest, or value as part of the development, heritage or cultural characteristics of the locality, State, or Nation; or is associated with the life of a personality significant to the past; or
- b. Such embodies those distinguishing characteristics of an architectural type or engineering specimen; or
- c. Such is the work of a designer or architect or contractor whose individual work has influenced the development of the community or of this Nation; or
- d. Such contains elements of design, detail, materials, or craftsmanship which represent a style unique to the past; or
- e. Such is a part of or related to a square, park, or other distinctive area and it should be developed and preserved according to a plan based on an historical, cultural or architectural motif; or
- f. Such represents an established and familiar visual feature of the neighborhood, community, or skyline owing to its unique location or singular physical characteristics.

2. *Archaeology Category*

- a. Such has yielded, based upon physical evidence, information important to history or prehistory; or
- b. Such is part of or related to a distinctive geographical area which should be developed or preserved according to a plan based on cultural, historic, or architectural motif.

6.3 Certificate of Appropriateness

A. **General**

The Historic Preservation Commission shall review applications for Certificate of Appropriateness (COA) and may approve, approve with conditions, or deny the same in accordance with the provisions of this Section and the Design Guidelines. The Historic Preservation Commission shall transmit a copy of the COA along with a set of approved plans to the Building Official. The Building Official shall not issue any permit in violation of this Section or inconsistent with the COA.

B. **Certificate Required**

A Certificate of Appropriateness shall be required in the following instances before the commencement of work upon any structure or site located within the Historic Preservation District:

1. Whenever such work requires a building permit issued by the City.
2. Whenever such work includes the construction, erection, moving, demolition, reconstruction, rehabilitation, restoration, stabilization or alteration of the exterior of any structure or site

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except when such work satisfies all the requirements for ordinary maintenance and repair as defined in the currently adopted building code.

3. No building permit shall be issued by the Building Official for any structure or site located within the Historic Preservation District until the application for such permit has been reviewed and a COA has been approved by the Historic Preservation Commission.

C. **Certificate of Appropriateness**

1. *Application*

Application shall be made by the owner or owner's authorized agent and filed with the Director. The applicant shall pay a filing fee as set forth in Chapter 1-3, Fees of the City of Tahlequah Code of Ordinances. The Director shall prepare a report and transmit the report to the Historic Preservation Commission. The application for a COA shall contain the following:

- a. A Site Plan showing location of new and existing structures;
- b. Floor plan showing the limits of the proposed work;
- c. Façade elevations with existing and proposed materials; and
- d. Any other information that may be necessary to determine compliance with this Section.

D. **Historic Preservation Review and Recommendation**

Upon receipt of a complete application for a COA the Historic Preservation Commission shall act upon the application within sixty (60) days of the submittal for such certificate, and in the event of failure to so act, such certificate shall be deemed approved, unless a continuance is requested by the applicant. The Historic Preservation Commission shall utilize the Design Guidelines to measure the appropriateness or inappropriateness of the proposed work. The Historic Preservation Commission shall approve, approve with modifications or deny the COA. The Historic Preservation Commission shall review the application and consider the following:

1. The degree to which the proposed work is consistent with the Design Guidelines.
2. The degree to which the proposed work would destroy or alter the historic resource.
3. The degree to which the proposed work would be out of character to the surrounding neighborhood or other historic resources.

E. **Expiration of COA**

If work authorized by a COA is not begun within sixty (60) days, the Certificate of Appropriateness shall expire and reapplication must be made, unless a thirty (30) day extension is granted by the Commission; no more than two extensions may be permitted on one project.

F. **Procedures if COA Includes Demolition**

No structure or site within any HP zoning district shall be demolished or removed unless such demolition is approved by the Historic Preservation Commission and a COA for such demolition is granted.

G. **Procedure if Demolition is Denied**

If the COA to demolish a structure is not approved, action shall be stayed for a period of sixty (60) days. During this time period the Historic Preservation Commission shall consult with the property owner and other interested parties to explore alternatives to demolition. If alternatives cannot be agreed on by the Historic Preservation Commission and the property owner, the stay shall automatically be terminated. Prior to the expiration of the sixty (60) day period, the Historic Preservation Commission may request a public hearing before the City Council to extend the stay period not to exceed an additional sixty (60) days. The Historic Preservation Commission shall by mail notify the property owner of such request and date of the public hearing.

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H. **Action by Council**

Following the public hearing, the City Council shall vote to approve, approve with conditions, or deny the request to extend the stay period for an additional sixty (60) days. Denial shall constitute approval and issuance of a COA for demolition.

I. **Appeal from Historic Preservation Commission**

Appeal from any decision of the Historic Preservation Commission may be taken to the Board of Adjustment and follow procedures in Section 7.7.A.

6.4 Certificate of Economic Hardship

A. **Certificate of Economic Hardship**

1. *Application*

Application on forms prescribed by the Commission for certificate of economic hardship may be made by an owner or his agent who has been denied a Certificate of Appropriateness for any work specified.

2. *General Provisions and Procedure*

The Historic Preservation Commission may require that the applicant for a certificate of economic hardship make submission concerning any or all of the following information before it makes a determination on the application:

- a. An estimate of the costs of the proposed construction, alteration, demolition, removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for the issuance of a Certificate of Appropriateness.
- b. A report from a licensed engineer or architect with experience in rehabilitations as to the structural soundness of any structures on the property and their suitability for rehabilitations.
- c. The estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolitions, or removal; after any changes recommended by the Historic Preservation Commission and, in the case of proposed demolition, after renovation of the property for continued use.
- d. In the case of proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate profession experienced in rehabilitation as to the economic feasibility or rehabilitation or reuse of the existing structure on the property.
- e. Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased and any terms of financing between the seller and buyer.
- f. If the property is income-producing, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance depreciation deduction and annual cash flow before and after debt services, if any, during the same period.
- g. Remaining balance on any mortgage or any other financing secured by the property and annual debt service, if any, for the previous two (2) years.

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- h. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property.
 - i. Any listing of the property for sale or rent, price asked and offers received, if any within the previous two (2) years.
 - j. Assessed values of the property according to the two (2) most recent assessment.
3. Public Hearing Required
After the application for certificate of economic hardship has been submitted, the Commission shall hold a public hearing at which any person may testify concerning the economic hardship.
4. Determination of Economic Hardship
The Commission shall review all the evidence and information required of any applicant for economic hardship and act upon the economic hardship application within forty-five (45) days of receipt of the application. The Commission shall determine whether the denial of a Certificate of Appropriateness has deprived or will deprive, the owner of the property of reasonable use of, or economic return on, the property. If the Commission approves such certificate of economic hardship, the applicant shall proceed with work only when issued a Certificate of Appropriateness.

ARTICLE 7
COMMON DEVELOPMENT PROCEDURES

ARTICLE 7
COMMON DEVELOPMENT PROCEDURES

Section 7.1 Purpose

This Article describes the procedures for review and approval of all applications for development activity in the City of Tahlequah. Table 7.1 summarizes the review and decision-making responsibilities for the procedures described in this Article. The table is a summary tool and does not describe all possible types of decisions made under this Ordinance.

| Table 7.1: Review and Decision Making Responsibilities | | | | | | |
|--|---------|--------------------|--------------|---------------------|---------------------|------------|
| Procedure | Section | Pre-App Conference | City Council | Planning Commission | Board of Adjustment | City Staff |
| Amendment: Comprehensive Plan | 7.7.B | | D-H | R-H | | R |
| Amendment: Text | 7.4.C | | D-H | R-H | | R |
| Amendment: Zoning Map | 7.4.D | Yes | D-H | R-H | | R |
| Planned Unit Development (PUD) | 7.5 | Yes | D-H | R-H | | R |
| Special Exception | 7.7.B | Yes | | | D-H | R |
| Variance | 7.7.C | Yes | | | D-H | R |
| Site Plan Review | 7.8.B | Yes | | | A-H | D |
| Building Permit | 7.8.A | | | | A-H | D |
| Annexation | | Yes | D-H | R-H | | R |
| Note: R=Review (responsible for review and/or recommendation) H=Hearing (public hearing required) D=Decision (responsible for final decision) A=Appeal (authority to hear/decide appeals) | | | | | | |

Section 7.2 Pre-Application Conference

A. Purpose

The purpose of the pre-application conference is to provide an opportunity for an informal evaluation of the applicant’s proposal and to familiarize the applicant and the City Staff with the applicable provisions of this Ordinance, the Comprehensive Plan, infrastructure requirements, and any other issues that affect the applicant’s proposal.

B. Applicability

A pre-application conference shall be required prior to the submittal of the following types of new applications:

1. Comprehensive Plan Amendments;
2. Zoning Map Amendments (Rezoning);
3. Planned Unit Developments (PUDs);
4. Site Plans Review;
5. Special Exceptions;

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COMMON DEVELOPMENT PROCEDURES

- 6. Variances; and
- 7. Annexations
- C. **Initiation**
An applicant shall request a date for the pre-application conference with Staff. The request shall be accompanied by a description of the character, location, and magnitude of the proposed development and the type of approval sought. If a conceptual plan is required, then it should be brought to the pre-application conference.
- D. **Scheduling**
Upon receipt of the request for a pre-application conference, the Director shall schedule and hold the pre-application conference. The Director shall notify the applicant of the time, date, and place of the pre-application conference.
- E. **Conference Determinations**
At the pre-application conference, Staff shall review the material, make recommendations, and indicate concerns, problems, or other factors the applicant should consider in pursuing the proposal.
- F. **Informal Evaluation Not Binding**
The informal evaluations of the Director and staff provided at the conference are not binding upon the applicant or the City. But are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of the formal application of issues that may be presented to the appropriate decision-making entity.
- G. **Record of Pre-Application Conference**
The applicant shall be responsible for recording a summary of topics discussed at the pre-application conference. The record shall be submitted as part of the formal application.

Section 7.3 Applications

- A. **Form of Application**
Applications required under this Article shall be submitted in a form and in such number as required the by the Director.
- B. **Authority to File Applications**
Unless otherwise specified in this Ordinance, applications for review and approval may be initiated by:
 - 1. The owner of the property that is the subject of the application;
 - 2. Any person authorized by the owner, provided, the authorized person submits written documentation of authority with the application; or
 - 3. The Planning Commission or City Council.
- C. **Development Review Fees**
 - 1. *Recovery of Costs*
Development review fees are established to recover the costs incurred by the City in processing, reviewing, and recording applications pertaining to the development application or activity within the City's boundaries. The applicable development review fees shall be paid at the time of submittal of any development application.
 - 2. *Development Review Fee Schedule*

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The amount of the City's development review fees shall be established by the City Council and may be amended from time to time.

D. Determination of Application Completeness

1. Authority for Determination

After receipt of the development application, the Director shall determine whether the application is complete and ready for review.

2. Complete Applications

If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Ordinance. An application will be considered complete if it is submitted on the required form, includes all mandatory information and supporting materials, and is accompanied by the applicable fee. A pre-application conference shall have been held, if required by this Ordinance. The determination of completeness shall not be based upon the perceived merits of the application.

3. Incomplete Applications

- a. If an application is determined to be incomplete, the Director shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a future re-submittal.
- b. If any false or misleading information is submitted or supplied by an applicant on an application, the application will be deemed incomplete.

E. Inactive Files

Unless elsewhere specified, if an applicant fails to submit required information or request a hearing date for a period of more than six (6) months, his or her file shall become void and the re-submittal of a new application and fees shall be required. The Director may grant no more than two (2) extensions of time to this provision, no more than three (3) months each, upon a written request by the applicant.

Section 7.4 Amendments

A. Applicability

This Section covers the procedures to amend the Comprehensive Plan, the text of this Ordinance, and the Zoning Map.

B. Amendments to the Comprehensive Plan

1. Authority to File

Amendments to the Comprehensive Plan may be initiated by the City Council, Planning Commission, or the Director.

2. General

The Comprehensive Plan should be reviewed and reassessed regularly to evaluate the effectiveness and adequacy of the Plan. This Section provides guidance on when and how amendments shall be considered.

3. Complete Plan Revision

A full review and complete revision of the Comprehensive Plan shall be done once every fifteen (15) years.

4. Intermittent Updates

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Partial review and revision of the Comprehensive Plan shall be done at least once every five (5) years. The partial review and revision shall update the existing Comprehensive Plan in accordance with the changing economic and demographic trends, recent and proposed land use decisions, adopted studies and plans, and area wide rezonings.

C. **Amendments to the Text of this Ordinance**

1. *Authority to File*

Amendments to the text of this Ordinance may be initiated by the City Council, Planning Commission, or the Director.

2. *Procedure*

a. Review and Recommendation

The Director shall prepare a report and recommendation on the proposed zoning ordinance text amendment. The report must be transmitted to the Planning Commission before its public hearing on the proposed amendment.

b. Hearing Held; Notice Required

A public hearing shall be held by the Planning Commission and notice shall be given in accordance with the notice procedures in Section 7.9.

c. Actions by the Planning Commission

The Planning Commission shall hold a public hearing on the zoning ordinance text amendment. Following the public hearing, the Planning Commission may recommend approval, approval with conditions and/or modifications, or denial of the proposed amendments. The Planning Commission shall transmit its report and recommendations to the City Council. If no action is made by the Planning Commission within thirty (30) days of the public hearing, then the Planning Commission may request an extension of time from the City Council. If no action is made and no extension is granted, then the City Council may act on the proposed amendment without recommendation from the Planning Commission.

d. Final Action By City Council

Upon receipt of the Planning Commission and Director's report and recommendations, the City Council shall hold a public hearing and approve, approve with conditions and/or modifications, or deny the proposed text amendments. The City Council may remand the proposed text amendment back to the Planning Commission for further consideration.

D. **Amendments to the Zoning Map**

1. *Authority to File*

Applications for zoning map amendments may be initiated as provided in Section 7.3.B of this Ordinance.

2. *Procedure*

a. Application

i. Pre-Application Conference

A pre-application conference shall be held in conformance with Section 7.2 of this Ordinance.

ii. Time of Filing

Each application shall be filed with the Director at least thirty (30) days prior to the date of the public hearing at which the amendment is to be considered.

iii. Content

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The applicant shall submit an application furnished by the Director and shall include all information required on the applications as well as site plans, drawings and other factual information or evidence which will help the Planning Commission reach an intelligent decision.

b. Review and Recommendation

Upon receipt of a completed zoning map amendment application the Director shall prepare a report and recommendation on the proposed zoning map amendment. The report shall be transmitted the Planning Commission and other interested parties prior to the hearing date.

c. Hearing Held; Notice Required

A public hearing shall be held by the Planning Commission and notice shall be given in accordance with the notice procedures in Section 7.9.

d. Action by the Planning Commission

The Planning Commission shall hold a public hearing on the zoning map amendment. Following the public hearing, the Planning Commission shall act to recommend to the governing body that the application be approved, approved with modifications, or deny the zoning map amendment.

e. Planning Commission Denial

If the Planning Commission votes to deny an application or to modify it in a manner not acceptable to the applicant, the applicant may within fifteen (15) days appeal the Planning Commission's action to the governing body by filing a written request to the City Clerk. Upon notice of written request, the Planning Commission shall transmit the application and its report and recommendations to the City Council.

f. Final Action by City Council

Upon receipt of the Planning Commission and Director's report and recommendation, the City Council shall act on the zoning map amendment to approve, approve with modifications, including approval of a less intensive zoning district, or deny the proposed map amendment. In the event of an appeal, the governing body may approve the application, return it to the Planning Commission for further study and report, or deny the application. If the application is returned to the Planning Commission, the governing body may hereafter recall it and approve or deny the application. The zoning map amendment shall be made by Resolution of the City Council and shall be filed in the Cherokee County Clerk's office. Zoning map amendments may be approved by a simple majority, except as stated in Section 7.4.D.3.

g. Effect of Denied Applications by City Council

When the governing body shall have denied an application to change the zoning classification of any land, no application to change the zoning classification of such land or any part thereof shall be eligible for a public hearing within twelve (12) months after such prior public hearing, provided however, that a new application for a less intensive zoning district shall be eligible for public hearing six (6) months after the prior public hearing.

3. *Protests*

Written protests against proposed zoning map amendments shall be filed at least three (3) days prior to the date of the public hearing before the Planning Commission. If protests are filed by:

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- a. The owners of twenty percent (20%) or more the area of the lots included in the proposed zoning map amendment, or
- b. The owners of fifty percent (50%) or more of the area of the lots within a three-foot (300') radius of the exterior boundary of the territory included in the proposed zoning map amendment;

Then the proposed zoning map amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all of the members of the City Council.

4. *Platting Required*

For purposes of providing a proper arrangement of streets and assuring adequacy of open spaces for traffic, utilities, and access of emergency vehicles, commensurate with the intensification of land use customarily incidental to the proposed development a platting requirement is established. For any land which has been rezoned upon application of a private party, no building permit may be issued until that portion of the tract on which the permit is sought has been included within a subdivision plat or replat, as the case may be, submitted to and approved by the Planning Commission, and filed of record in the office of the Cherokee County Clerk. Provide that the Planning Commission, pursuant to their exclusive jurisdiction over subdivision plats, may waive the platting requirement upon a determination that the above stated purposes have been achieved by previous platting or could not be achieved by a plat or replat.

Section 7.5 Planned Unit Developments (PUDs)

1. Pre-application Conference

A pre-application conference shall be required according to the provisions of Section 7.2 of this Ordinance.

2. Application

Applications shall follow the procedures as described in Section 7.4.D for regular proposed zoning map amendments, provided however, an application for a supplemental district designation PUD may be processed concurrently with an application for regular zoning map amendment and made contingent upon approval of said application. In addition, an application for the supplemental designation PUD may be processed with a preliminary plat provided, the preliminary plat conforms to the subdivision regulations of the City of Tahlequah.

3. Development Plan

A request for zoning to the PUD district shall be accompanied by a Development Plan. The Development Plan is a detailed depiction of the development within the PUD district and shall establish maximum densities, uses and regulations for the proposed PUD. Development within the PUD district shall be in conformance with the approved Development Plan. The Development Plan shall include proposed covenants that and shall include, but not be limited to, bulk and area requirements and sign regulations.

4. Review Criteria

A PUD request and Development Plan shall be reviewed in conformance with the following criteria.

- a. The project shall be compatible with the surrounding, developed neighborhood. Compatibility both among the uses within the PUD district and uses adjacent to the PUD district shall be

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determined by the design features of the PUD. The use of landscaping, buffers, and screening, building separations and location of parking areas will be considered in determining the compatibility. Additionally, the densities should be allocated in a manner and a scale to prevent negative impacts on adjacent uses. Buildings should be located and arranged to provide adequate privacy and visual relief from density;

- b. The project shall protect and incorporate the significant natural features of the site;
- c. The project shall provide usable open space and recreational amenities suitable for the project's intended residents;
- d. The project shall provide a safe, functional and efficient vehicular circulation system. Access to the project shall be adequate for the development. Street design should minimize traffic infiltration through adjacent neighborhood. Pedestrian circulation shall be provided where appropriate, particularly for access throughout the project and to open spaces;
- e. Public services, facilities and utilities shall have sufficient capacity to accommodate the project. This may result in construction of improvements beyond the project site as a condition of the PUD approval;
- f. Stormwater drainage shall be managed in accordance with the City of Tahlequah Subdivision Regulations.
- g. To determine compliance with the above criteria, the Director may require that additional information be submitted with a PUD zoning request.

E. **Amendments**

Minor amendments to the Development Plan may be approved by the Director. These shall include minor changes in location and height of buildings, interior access ways or arrangement of parking or open spaces. Major amendments as described below must be reviewed through the same process as the original PUD district:

- 1. Change in the PUD boundaries;
- 2. Increase in density;
- 3. Change in permitted uses;
- 4. Reduction of open space;
- 5. Relocation of access points;
- 6. Substantial changes to building location and height, parking areas, circulation system or open spaces as determined by the Director.

F. **Subdivision Plat**

- 1. Property within a PUD district shall be platted in accordance with approved PUD Development Plan. Final platting may occur on a portion of the PUD site if it is in accordance with the phasing sequence shown on the approved Development Plan.
- 2. A PUD subdivision plat shall be processed in accordance with the subdivision development regulations and in addition to the requirements of the subdivision development regulations the PUD subdivision plat shall include:
 - a. Provisions for the ownership and maintenance of the common open space or private streets as will reasonably ensure its continuity and conservation. Open space may be dedicated to a private association or to the public, provide that a dedication to the public shall not be accepted without the approval of the City Council;
 - b. Such covenants as will reasonably ensure the continued compliance with the approved development plan. In order that the public interest may be protected, the City of

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Tahlequah shall be made beneficiary of the covenants pertaining to such matters as a requirement of approval of detailed plans prior to the issuance of any permits, location of uses, height of structures, setbacks, screening, open space, signage and access. Such covenants shall provide that the City of Tahlequah may enforce compliance therewith, and shall further provide that amendment of such covenants shall require the approval of the City Council and the filing of record of a written amendment to the covenants, endorsed by the City Council.

G. **Street Design and Construction**

All streets, public or private, located within a PUD district shall be designed and constructed in accordance with the subdivision development regulations.

H. **Building Permits**

Both approval of the Development Plan and recording of the final plat and restrictive covenants shall occur prior to the issuance of building permits. All requests for building permits shall conform to the approved Development Plan and restrictive covenants.

Section 7.6 Historic Preservation Activities

The creation of historic preservation districts, the issuance of certificates of appropriateness, and all other activities under the purview of the Historic Preservation Commission shall be in accordance with Article 6 – Historic Preservation.

Section 7.7 Board of Adjustment Hearings

A. **Administrative Appeals**

1. *General*

Appeals from the action where it is alleged there has been an error in any order, requirement, decision, or determination of an administrative officer in the enforcement of this Ordinance to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer.

2. *Procedure*

a. *Filing*

An appeal shall be taken within then (10) days by filing with the officer whom the appeal is taken and filing with the Board of Adjustment a notice of appeal specifying the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment certified copies of all the papers constituting the record of the matter, together with a copy of the ruling or order from which the appeal is taken.

b. *Effect of Filing*

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him or her that by reason of facts stayed in the certificate of stay would in his or her opinion cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

c. *Hearing Held*

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The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice, as provided in Section 7.9, as well as personal written notice to the parties in interest and decide the same within reasonable time.

- d. Action by the Board of Adjustment
 - i. The Board of Adjustment shall reverse, affirm, or modify the contested action. In reversing, affirming, or modifying the contested action, the Board shall have all the relevant powers of the administrative officer from whom the appeal is taken.
 - ii. The Board of Adjustment shall not reverse or modify the contested action unless it finds the administrative officer erred in the application or interpretation of the terms of this Ordinance or related policies adopted by the City.

B. Special Exceptions

1. Authorized Special Exceptions

The Board of Adjustment is hereby authorized to make special exceptions to specific uses allowed within each zoning district according to the terms of this Ordinance and subject to the appropriate conditions and safeguards in harmony with the general purpose and intent and only in accordance with the specific or general provisions contained in this Ordinance.

2. Procedures

a. Pre-Application Conference

A pre-application conference shall be required according to the provisions of Section 7.2 of this Ordinance.

b. Application

Application shall be made by the owner or owner's authorized agent and filed with the Director. The Director shall prepare a report and transmit the report to the Board of Adjustment before the required hearing.

c. Hearing Held; Notice Required

A public hearing shall be held with notice according to the provisions in Section 7.9.

d. Actions by the Board of Adjustment

The Board of Adjustment may approve, approve with conditions and/or modifications, or deny the proposed special exception. Upon approval, the Board of Adjustment is authorized to prescribe appropriate conditions and safeguards, and may require such evidence and guarantee of bond as it may deem necessary to enforce the compliance with the conditions attached.

e. Approval Criteria

A special exception may be approved only if the Board of Adjustment makes each of the following findings:

- i. That the special exceptions will be in harmony with the spirit and intent of this Ordinance; and
- ii. The special exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

f. Expiration

A special exception which has not been utilized within two (2) years from the date of the order granting the same shall thereafter be void. For the purpose of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

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3. *Transferability*

Approved special exceptions run with the land are not affected by changes of tenancy, ownership, or management.

C. Variances

1. *Purpose*

The intent of a variance is to help alleviate any unnecessary hardship or practical difficulty that would be caused by the strict enforcement of the subject zoning ordinance requirements. They are intended to provide relief when the requirements of this Ordinance render property very difficult or impossible to put to reasonable use because of unique or special characteristics of the property itself.

2. *Procedures*

a. Pre-Application Conference

A pre-application conference shall be required according to the provisions of Section 7.2 of this Ordinance.

b. Application

Application shall be made by the owner or owner's authorized agent and filed with the Director. The Director shall prepare a report and transmit the report to the Board of Adjustment before the required public hearing.

c. Hearing Held; Notice Required

A public hearing shall be held with notice according to the provisions in Section 7.9.

d. Actions by the Board of Adjustment

The Board of Adjustment may approve, approve with conditions and/or modifications, or deny the variance. Upon approval the Board of Adjustment is authorized to prescribe appropriate conditions and restrictions to minimize the effect of the variance on other properties in the area.

e. Approval Criteria

A variance to the terms of this Ordinance may be granted, as provided in this Article if the Board of Adjustment makes each of the following findings:

- i. The application of the Ordinance to the particular piece of property would create an unnecessary hardship;
- ii. Such conditions are peculiar to the particular piece of property involved;
- iii. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- iv. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this Ordinance or the Comprehensive Plan; and
- v. Relief, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

f. Expiration

A Variance which has not been utilized within two (2) years from the date of the order granting the same shall thereafter be void. For the purposes of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

3. *Transferability*

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Approved variances run with the land and are not affected by changes of tenancy, ownership, or management.

Section 7.8 Administrative Procedures

A. **Building Permit**

No building or other structure, including signs, shall be erected, constructed, enlarged or altered in such a manner as to prolong the life of a building, nor shall the use of any land or building or other structure be changed, without a building permit issued by the Building Official, authorizing such construction, alteration or use changes as being in compliance with the provisions of this Ordinance, unless expressly exempt according the most recently adopted Building Codes of the City of Tahlequah or the Building Official receives written order from the Board of Adjustment in the form of an administrative appeal, special exception, variance, or findings as provided by these regulations.

1. *Application*

An application for building permit shall be made to the Building Official by the owner, or proposed occupant of the building or land to be occupied or used, and said application shall state the location and legal description of said property and set out in detail the character and nature of the use to be conducting thereon. The Building Official shall grant or deny the building permit in accordance with the terms of this Ordinance.

2. *Information Accompanied by Building Permit Application*

All applications for building permits shall be accompanied by a plat or drawing drawn to scale, showing the dimension of the lot to be built upon, the size and location of the building to be erected, and such other information as may be necessary to provide the enforcement of City regulations.

3. *Compliance with Subdivision Plat and Site Plan*

A building permit shall be issued only when a subdivision plat (as required by the Subdivision Regulations) and a site plan, if required, has been approved. However, with the approval of the Director, an applicant may submit a building permit application to the Building Official concurrent with the site plan application, which permit may be issued upon site plan approval by the Director. Building permits shall not be issued for any development that is not in conformance with the approved site plan.

4. *Expiration*

Building permits shall expire according to the terms in the most recently adopted building codes of the City of Tahlequah.

5. *Floodplain Provision*

No building permit shall be issued in areas of special flood hazard within the jurisdiction of the City of Tahlequah without full compliance with the terms of the City of Tahlequah Municipal Code of Ordinances Chapter 12-5, Flood Damage Prevention.

B. **Site Plan Review**

1. *Purpose*

The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of this Ordinance and to encourage quality development reflective of the goals, policies, and objectives of the Comprehensive Plan. Prior to any building being constructed in a Multi-family Residential District, Non-Residential District, or a

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Public District a site plan shall be submitted that shows a unified, organized arrangement of the building and/or buildings, off-street parking, points of ingress and egress, internal traffic circulation, property lines, building setback distances, freestanding signs, service facilities, utility locations, light poles, solid waste collection facilities, screening fences, curb lines, neighboring curb cuts, and utility poles (if any). The plan must contain information showing compliance with the requirements of this Section and all other applicable codes and ordinances.

2. *Pre-Application Conference*

A pre-application conference shall be required according to the provisions of Section 7.2 of this Ordinance.

3. *Application*

Where a site plan is required, site plans shall be submitted concurrently with a building permit application. The application shall be in accordance with the provisions of Section 7.3 of this Ordinance.

4. *Administrative Actions*

The Director shall review each site plan submittal and distribute the site plan to other reviewers. Based on the results of those reviews, the Director shall take final action on the application and approve, approve with conditions and/or modifications, or deny the site plan.

5. *Approval Criteria*

A site plan may be approved upon a finding that the site plan meets all of the following criteria:

- a. The site plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;
- b. The site plan complies with all applicable development and design standards set forth in this Ordinance.

6. *Site Plan Amendments*

Minor amendments may be made to an approved site plan that the Director may reasonably determine to be minor. For the purpose of this provision minor amendments may include, but are not limited to, changes in building envelope, setback and similar provisions; changes in landscaping, sign placement, lighting fixtures.

C. Certificate of Occupancy

1. *General Requirement*

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefor by the Building Official stating the proposed use of the building or land conforms to the requirements of these regulations, except as provided below. No certificate of occupancy shall be required for:

- a. The continuation, unchanged of an existing use, whether conforming or nonconforming.
- b. The planting or harvesting of crops or gardens or the grazing of cattle or horses where permitted by the district regulations.

2. *Issuance of Certificate of Occupancy*

Certificates of occupancy shall be on a form supplied by the Building Official. No certificate of occupancy shall be issued by the Building Official except in conformity with these regulations.

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Where an application for a certificate of occupancy accompanies an application for a building permit, the certificate of occupancy shall not be issued until the building described in the building permit has been completed in conformity with these regulations.

3. *Temporary Certificate of Occupancy*

A temporary certificate of occupancy may be issued by the Building Official for a period of time as determined by the Building Official during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

4. *Records and Copies*

The Building Official shall maintain a record of all certificates of occupancy and a copy shall be furnished upon requests to any person.

5. *Failure to Obtain Certificate of Occupancy*

Failure to apply for a certificate of occupancy, where required by this section, shall be a violation of these regulations and punishable under Article 9 thereof.

Section 7.9 Notice Requirements

A. General

Parties in interest and citizens shall have an opportunity to be heard at a public hearing. Required notices as identified in this Article for public hearings shall be in the form of one or more of the following types of notices. Table 7.9.A summarizes the type of notice required for each application.

| Table 7.9.A: Applicable Notices | | |
|--|-------------------------|--------|
| Type of Application | Type of Notice Required | |
| | Published | Mailed |
| Amendment: Comprehensive Plan | X | |
| Amendment: Text | X | |
| Amendment: Zoning Map | X | X |
| Special Exception | X | X |
| Variance | X | X |

1. *Published Notice*

If published notice is required by Table 7.9.A, the applicant shall publish notice in a newspaper of general circulation in the City of Tahlequah. The notice shall be published at least fifteen (15) days prior to the scheduled hearing date.

2. *Mailed Notice*

If mailed notice is required in accordance with Table 7.9.A, the applicant shall procure a list of property owners and organizations within three hundred foot (300') of the outer boundary of the land subject to the application. The list shall be prepared by a title insurance company or abstract company licensed by the State of Oklahoma. The applicant shall mail such notice at least twenty (20) days prior to the scheduled hearing date.

B. Form of Notice and Content

All notices required by this Article shall be in a form and approved by the Director prior to mailing and/or publishing said notice. Required public hearing notices shall contain the following:

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1. Legal description of the property and street address or approximate location in the City of Tahlequah;
2. Present zoning of the property and action sought by the applicant.
3. Date, time, and location of the public hearing;
4. Who will conduct the public hearing;
5. The proposed use of the property;
6. A map of the property showing the area to be affected; and
7. Other information as deemed necessary to provide adequate and timely public notice.

C. Constructive Notice

Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in legal descriptions or typographical or grammatical errors that do not impede communication of the notice to affected parties. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Ordinance. Failure of a party to receive written notice wherein delivery was attempted shall not invalidate subsequent action.

D. Proof of Publication and Mailing

1. *Proof of Publication*

The applicant shall provide proof of publication in a newspaper of general circulation to the Director at least five (5) days prior to the scheduled hearing date.

2. *Proof of Mailing*

The applicant shall submit the list of property owners and organizations prepared a title insurance company or abstract company and proof of mailing to the Director at least five (5) days prior to the scheduled hearing date.

3. *Failure to Provide Proof*

Failure to provide proof of mailing and/or publication, or the mailing list is found to be incorrect, may be grounds for the decision making entity to deny the application.

ARTICLE 8
REVIEW AND DECISION MAKING ENTITIES

ARTICLE 8
REVIEW AND DECISION MAKING ENTITIES

Section 8.1 Purpose

This Article identifies the roles, duties, and responsibilities of various appointed and elected boards, commissions, referral agencies, and consultants acting in the role of the staff, and City staff in the administration of this Ordinance.

Section 8.2 – Boards and Commissions Generally

A. **Boards and Commissions Appointment and Confirmation**

Appointment to boards and commissions within the scope of this Ordinance shall be made and confirmed by the City Council in accordance with the City of Tahlequah Code of Ordinances and the Charter of this City.

B. **Conduct of Boards and Commissions**

This Section contains procedures that are common to all appointed boards and commissions under this Ordinance, including the Planning Commission and the Board of Adjustment.

1. *Absence of Member*

Any member of an appointed board or commission under this Ordinance anticipating an absence from a meeting of their board or commission shall so advise the chair or Director prior to the meeting.

2. *Agenda*

The agenda for each regular meeting of an appointed board or commission under this Ordinance shall be prepared by the director and shall be distributed to each member at least twenty-four (24) hours prior to the meeting.

3. *Ordinance of Ethics*

The Planning Commission and Board of Adjustment members shall, in the performance of their quasi-judicial, adjudicatory responsibilities in all matters before them, including all matters that their members should reasonably know or expect to come before them, shall:

- a. Make their decision solely on the applicable law and the evidence in the record presented to the panel through the clerk or secretary of the board or commission or, when permitted, submitted to the panel in an open hearing on the record;
- b. Be impartial in fact and in appearance in the performance of their functions, which means that the panel and its members shall make their decisions without any actual or seemingly apparent personal or financial bias, prejudice, prejudgment or partiality with respect to any person, party, or principle of law; and
- c. Conduct their proceedings according to the applicable procedures provided by law.

4. *Conflict of Interest*

- a. No member of an appointed board or commission under this Ordinance shall participate in any decision in which the board or commission determines either that such member has a conflict of interest; or that such member has a personal interest or involvement in the case that would prevent that member from fairly evaluating the cases; or that, based

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REVIEW AND DECISION MAKING ENTITIES

on all surrounding circumstances, participation by such member would create the appearance of impropriety in the proceedings.

- b. The determination shall take into consideration the interest of the public in boards and commission that have familiarity with the community and its past and future development. No member shall be excused from participation solely on the basis of personal familiarity with the case or the parties involved.
 - c. Any member who has a possible conflict of interest in a pending matter shall bring this information to the attention of the chair before the staff begins its presentation or as soon thereafter as the member recognizes his or her possible conflict. It shall be the responsibility of each member to fully disclose facts showing any known conflict of interest or other personal interest or involvement. Where appropriate, the conflict may be discussed in executive session.
 - d. Immediately upon discovering the existence of any conflict of interest prohibited by this Section, the Municipal Ordinance, or any state law applicable to local government officials, the board or commission member shall fully disclose on the record in open session of the board or commission the nature of the facts creating the conflict and shall be disqualified from any participation in or communications with other members of the board or commission on the matter with which a conflict exists.
 - e. A member who has a possible conflict of interest in a matter for decision may participate in that decision only upon the affirmative vote of a majority of all remaining commission members present. Such vote shall be recorded on the public record.
 - f. Any member found by the board or commission to have a conflict of interest with regard to a particular matter shall not participate in any manner in that matter.
5. *Ex Parte Contacts Prohibited*
- a. For the purpose of this Subsection, ex parte contacts and communications are defined as the receipt, either directly or indirectly, of verbal visual, or written communication outside a duly noticed, open hearing on the record at which all parties and all board or commission members have an opportunity to be present.
 - b. Members of adjudicatory or quasi-judicial boards and commissions shall refrain from permitted ex parte contacts or communications with any person regarding any matter pending before or which may be reasonably expected to be pending before them.
 - c. Ex parte contacts shall not influence quasi-judicial proceedings. If a member of an adjudicatory or quasi-judicial board or commission, as identified in this Section, obtains information outside of the public hearing process, whether through inadvertent ex parte communications with interested parties or through specific personal knowledge of a case, they shall fully disclose the information or knowledge to the board or commission during the public hearing, along with the source of that information.
 - d. Such ex parte communications or personal knowledge of a case shall not constitute a conflict of interest or other basis for excuse from participation in any case. Ex parte contacts shall be also prohibited for matters under reconsidering by the board.
 - e. The prohibition against ex parte contacts remains in effect as long as a matter may reasonably be expected to come before the board or commission until after all appeal and remands for further consideration and reconsideration have concluded or the time for such proceedings has expired.

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REVIEW AND DECISION MAKING ENTITIES

6. *Consent Agenda*

Any appointed board or commission under this Article may establish a consent agenda. The consent agenda shall consist of all matters brought before the board or commission for action that do not require a public hearing. All items may be removed from the consent agenda prior to the approval at the request of any member of the board or commission present at the meeting or by City staff if requested by the applicant. Items removed from the consent agenda shall be considered on the regular agenda.

7. *Quorum*

A majority of the full member of the board or commission shall constitute a quorum for the transaction of business.

8. *Official Action*

Action by the Planning Commission shall require the favorable vote of a majority of the members present. Action by the Board of Adjustment shall require the favorable vote of the majority of members of the fully constituted board, which shall include all appointed member not excused for conflict of interest in the board or commission action.

9. *Meetings Open to the Public*

All meetings of the appointed boards and commission under this Article shall be open to the public. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This Section does not apply to any votes required to be taken to organize a board or commission.

10. *Reconsideration or Rehearing of Decisions*

Reconsideration or rehearing of decisions of any appointed board or commission are to be discouraged and shall be held only upon the request of a board or commission member on the prevailing side of the original vote (prevailing member) for the following reasons:

- a. The original decision was based upon substantial procedural or jurisdiction error; or
- b. New relevant information that was not available at the time of the original hearing has been discovered; or
- c. The original decision was based upon fraud or misrepresentation.
- d. Any person seeking reconsideration or rehearing must file a request with the City Clerk, together with materials supporting one or more the grounds stated in this Subsection, within five (5) working days of the original decision. A prevailing member may then consider the request based upon the above criteria. When a hearing is held upon a reconsideration or rehearing request, the board or commission, by a majority vote, may schedule a rehearing only if it finds the allegations to be correct. A rehearing shall be conducted in the same manner as the original proceedings before the board or commission.

11. *Removal of a Member*

Any member of any board or commission may be removed from office without cause upon a majority vote of the City Council. Any member of any such board or commission who, without cause, shall be absent from three (3) consecutive regular meetings of such board shall be automatically removed from the office without further procedure.

12. *Representatives*

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Persons appearing before an appointed board or commission under this Article may appear in person or through a representative, agent, or attorney. The representative shall provide satisfactory proof of his or her authority upon the request of the board or commission.

13. Applicability of Other Provisions

The provision of this Article shall not be a limitation on more restrictive rules regarding the conduct of boards and commission set forth elsewhere in the City of Tahlequah Municipal Code.

Section 8.3 Planning Commission

A. Planning Commission Established

There is hereby established within and for the City a Planning Commission, which commission shall consist of five (5) citizens of the City. The members of the planning commission shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation except as hereinafter provided.

B. Term of Office

Members of the City Planning Commission shall hold office for a term of three (3) years with the exception that the first instance two (2) shall be appointed to serve a term of one (1) year, two for a term of (2) years and one (1) appointed for a term of three (3) years; appointments thereafter shall be made for a term of three (3) years, except when a vacancy occurs when the appointment shall be made to fill the unexpired term. The Mayor shall appoint the members of the City Planning Commission subject to approval and confirmation by the City Council.

C. Initial Meetings; Rules and Regulations

The members of the City Planning Commission shall meet within two (2) weeks after their appointment and confirmation and organize by electing from their members a chairman and vice chairman, and secretary. The commission shall adopt from time to time such bylaws, rules and regulations and amendments thereto as may be necessary to effectuate the purpose of this Article.

D. Powers and Duties

1. The City Planning Commission shall serve without pay. It shall be the duty of the commission to prepare from time to time plans for the systematic development and betterment of the municipality as a place of residence or for business. It shall have the power and authority to employ engineers, attorneys, clerks, and secretary or other help deemed necessary, subject to the approval of the City Council of the City. The salary and compensation of such employees shall be fixed by the City Council and shall be paid out of the City treasury as other officers and employees. The necessary expenses incurred by the planning commission shall be paid out of the City Treasury as other legal expenses of the City government.
2. The Planning Commission may consider and investigate any subject matter tending to the development and betterment of such municipality, and make recommendation as it may deem advisable concerning the adoption thereof to any department of the municipal government, and for any purpose make, or cause to made surveys, maps, or plans. Before final action shall be taken by the City Council, or any department of the City government, on the location and designs of any public building, statues, memorials, park, parkway, boulevard, street and ally, playgrounds, public grounds, bridges or the change in location of any street or

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ally or the grade thereof, such question shall be submitted the City planning Commission for investigation and report.

3. All plans, plats, replats of land laid out in lots or plats, and streets and alleys, or other portions of the same intended to be dedicated to the public or private use within the corporate limits of said City, shall first be submitted to the city Planning Commission for its approval or rejection.

Section 8.4 Board of Adjustment

A. **Board of Adjustment Established**

There is hereby established within and for the City a Board of Adjustment with the powers and duties as herein set forth.

B. **Membership**

1. The Board of Adjustment shall be composed of five members, citizens of the City, each appointed by the Mayor with the approval of the City Council for a term of three (3) years. For the first appointments under the provision of this Article, however, one (1) members shall be appointed for a term of one (1) year; two (2) members shall be appointed for a term of (2) years; and two (2) members shall be appointed for a term of three (3) years. All appointments thereafter shall be for a term of (3) years.
2. Not less than two (2) members of the board shall be appointed from the membership of the Planning Commission.
3. The board shall elect a chairman from among its membership to serve for a term of two (2) years.

C. **Procedure**

The Board of Adjustment shall adopt rules and in accordance with the provisions of this Ordinance. Meetings of the board shall be held at the call of the chairman and such other times the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public, the board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The concurring vote of at three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

D. **Powers**

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning regulations.
2. To hear and decide special exceptions to the terms of this ordinance upon which the Board of Adjustment is required to pass under such ordinance; and
3. To authorize in specific cases such variances from the terms of the ordinance as will be contrary to the public interest, where owing to special conditions a literal enforcement of the

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provisions of this ordinance will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

E. Extent of Relief

1. In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
2. The concurring vote of at least three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, and decision or determination of any such administrative officer, or decide in favor of the applicant, or to decide any matter upon which it is required to pass under this ordinance or to effect any variation in this Ordinance.

F. Findings and Rulings

In exercising the powers provided in Section 8.4.D of this Article the Board may, in conformance with the provision of the zoning ordinance, reverse, affirm, wholly or partly, or may modify the order, requirement, decisions, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the power of the officer from whom the appeal is taken, in considering all appeals from rulings made under the zoning ordinance and in making its findings on any specific case, the board shall determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion in the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding areas, and upon other factors relating to the public health, safety, comfort and morals and general welfare of the people of the City, every ruling made upon any appeal to the board shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the board, and shall specify the reason for granting or denying the appeal.

G. Appeal to District Court

An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons who were entitled to mailed notice of the public hearing before the Board of Adjustment, by any person or persons whose property interests are directly affected by such action, decision, ruling, judgement or order of the Board of Adjustment, or by the governing body of the City to the district court by filing notice of appeal with the City Clerk and with the Board of Adjustment within ten (10) days after the filing of the decision of the board, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the board shall forthwith transmit to the court clerk of the district court the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board.

H. Effect of Appeal

An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the chairman of the Board of Adjustment, from which the appeal is taken, certifies to the court clerk, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the district court upon application or notice to the administrative officer in

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charge of the enforcement of the terms and provision of the zoning ordinance, and upon notice to the chairman of the board of adjustment from which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

Section 8.5 Historic Preservation Commission

The Historic Preservation Commission shall have all authorities and duties and shall follow procedures as set forth in Article 6 Historic Preservation

Section 8.6 City Staff

A. **Review and Decision Making Responsibilities**

Municipal departments shall have the review and decision making responsibilities to be carried out in accordance with the terms of this Ordinance. The departments also shall have such additional powers and duties as may be set forth elsewhere in this Ordinance and other ordinances of the City. The following departments have the general responsibilities set forth below:

1. *Planning And Development*

The planning and development division shall act in an advisory and support capacity to the City Council and boards and commissions listed in this Article or as otherwise directed by the City Council. The planning division shall review or coordinate the review of all applications under this Ordinance.

ARTICLE 9
NONCONFORMITIES

ARTICLE 9
NONCONFORMITIES

Section 9.1 General Provisions

A. Purpose and Intent

Within the districts established by this Ordinance or amendments that may later be adopted, there exists lots, structures and uses of land and structures which are lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconforming uses to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere to the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance.

B. Determination of Nonconforming Status

In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the City.

C. Change of Ownership or Tenancy

Changes in ownership, tenancy, or management of property with an existing nonconformity are permitted, but such nonconformity shall continue subject to the provisions of this Article.

D. Construction Authorized or In Progress

If before the effective date of these regulations or amendment thereof, a building permit authorizing construction was lawfully issued, such construction may be started or continued after such date.

Section 9.2 Nonconforming Structures

- A. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.
1. No structure may be enlarged or altered in a way which increases its nonconformity.
 2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
 3. Should the structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

ARTICLE 9
NONCONFORMITIES

Section 9.3 Nonconforming Uses of Structures

- A. If a lawful use of a structure, or use of a structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use for the structure to a use permitted in the district in which it is located.
 2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy land outside of such building.
 3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 4. When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned for one (1) year, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district which it is located.
 5. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 9.4 Nonconforming Uses of Land

- A. Where at the effective date of adoption or amendment of this Ordinance, lawful uses of land exist that are no longer permissible under the terms of this Ordinance as enacted or amended, such uses may be continued, so long as they remain otherwise lawful subject to the following provisions.
1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
 2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
 3. If any such nonconforming use of land ceases for any reason for period of more than sixty (60) consecutive days, any subsequent use of such land shall conform to the regulation specified by this Ordinance for the district in which such land is located.

Section 9.5 Nonconforming Lot of Record

- A. In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

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Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

- B. Where a lot has been created for nonresidential purposed under Section 3.17.B or any other section of these regulation and such lot does not comply with the residential setback and FAR requirements of the district in which it is located, such lot shall not be used for residential purposes.

Section 9.6 Nonconforming Signs

- A. Nonconforming signs may be continued subject to the following provisions:
1. Nonconforming signs must be maintained in good repair and safe condition, in accordance with Section 4.1.
 2. If a sign is nonconforming by reason of restrictions on its brightness or illumination or its use of strobe or beacon lights, the sign must immediately be removed or made to conform.
 3. If a nonconforming sign is damaged or partially destroyed to the extent of more than fifty percent (50%) of its replacement cost at the time of damage, the sign must be removed or made to conform to all applicable regulations within ninety (90) days of the date of damage or destruction.
 4. If a nonconforming sign is not used for advertising purposes for a period of two (2) years, the sign is deemed abandoned and must be removed.

Section 9.7 Abandoned Nonconforming Freestanding Mobile Homes

A. **Removal**

If a nonconforming freestanding mobile home is abandoned for more than six (6) months, such mobile home shall be removed from the property on which it is located. Removal of such mobile home shall be the responsibility of the property owner, according to the most recent information from the Cherokee County Assessor's office.

B. **Abandonment**

For the purposes of this Section, an abandoned nonconforming freestanding mobile home is mobile home which is not located in a mobile home park and has not had utility service from the Tahlequah Public Works Authority for more than six (6) consecutive months.

C. **Nuisance Declared**

It is hereby declared that an abandoned nonconforming freestanding mobile home is a nuisance.

ARTICLE 10
ENFORCEMENT

ARTICLE 10
ENFORCEMENT

Section 10.1 Compliance Required

A. Compliance Required

No person shall develop or use any land, building, or structure within the City of Tahlequah in violation of this Ordinance, regulations authorized under this Ordinance or the terms and conditions of permits or other approvals or entitlements issued under this Ordinance.

B. Permits and Applications

Permits issued or applications processed under this Ordinance shall conform to the terms and conditions of this Ordinance. A permit that is approved or an application that is process in violation of this Ordinance shall be void.

C. Responsibilities for Enforcement

The Building Official, Code Compliance Officer, and/or other designee shall enforce all zoning regulations of the City of Tahlequah and shall have the authority to issue citations to any person, firm, corporation which violates these regulations.

Section 10.2 Violations and Penalty

A. Record of Complaint

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be field with the Inspecting Officer. He or she shall record properly such complaint; immediately investigate, and take action thereon as provided by these regulations.

B. Violations

Violation of the regulations or failure to comply with any of their requirements including violations of conditions and safeguards established in connection with grants of variances or special exceptions, shall constitute a misdemeanor.

C. Penalty

A violation of this Ordinance shall be deemed a misdemeanor and shall be punishable by fine. Any person, firm, corporation who violates or refuses to comply with any provision of this Ordinance shall be fined as provided in Section 1-108 of the City of Tahlequah Code of Ordinances.

D. Responsible Entities

The owner or tenant of any building, structure, premises, or part thereof, and any architect, building, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffering the penalties herein provided.

E. Other Remedies Provided

Nothing herein shall prevent the unit of government from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 11
DEFINITIONS

Section 11.1 General

For the purpose of this this Ordinance, certain terms and words are to be used and interpreted as defined in this Article. Words used in the present tense shall include the future tense, words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of writing indicates otherwise. The word "shall" is mandatory and not directory:

Section 11.2 Use Definitions

A. Residential

1. HOUSEHOLD UNITS

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging.

Detached single family dwelling

A detached dwelling containing one dwelling unit, other than a mobile home, located on one lot and have no walls in common with adjoining dwellings.

Dwelling group

Two or more detached dwellings, other than mobile homes, on the same lot, as defined herein, but not including a single family dwelling with an accessory dwelling.

Mobile home

A detached dwelling unit, which is designated for transportation after fabrication, on street or highways on its own wheels or on a trailer and which arrives at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor incidental unpacking and assembly operations, located on jacks or other temporary or permanent foundation, connection to utilities, and similar operations and bearing a seal certifying that it is built in compliance with the federal manufactured housing construction and safety standards act of 1974 (42 USC 5401 et. seq.), which became effective June 15, 1976, and any amendments thereto. The term "mobile home" does not include the term "travel trailer", "recreational unit" or "modular home".

Modular home

A pre-manufactured lining unit without wheels, axels or hitches especially manufactured to become a permanently located dwelling unit. This definition shall not be construed to include a mobile home with an "add on", "pull out" or "fold out" room.

Multi-family dwelling

A dwelling structure, or portion thereof, designed exclusively for occupancy by three or more families living independently of each other in individual dwelling units.

Townhouse development

A tract of land on which there is built or is proposed to be built three or more single-family attached dwellings, located on separate lots, and having any portion of one or more walls in common with adjoining dwellings

Two-family dwelling

A dwelling structure containing two dwelling units on one lot.

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2. GROUP QUARTERS

Residential occupancy of a building or any portion of a building by a group other than a household. Group living uses typically provide communal kitchen/dining facilities. Group living use types include convents, monasteries, novitiates, fraternity and sorority houses, homeless centers and the following

Boarding, dormitory, and rooming house

A dwelling other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more but not exceeding twenty person on a weekly or monthly basis.

Convalescent, nursing home, or assisted living

A health facility used for or customarily occupied by persons recovering from or suffering from infirmities of age, that may provide meals, lodging, and continuing nursing care for compensation.

Fraternity or sorority

A building used as a group living quarters occupied by a college or university fraternity or sorority containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining area maintained exclusively for members of the fraternity or sorority and their guests or visitors.

Group home

A community-based residential facility that (1) admits not more than six (6) persons with developmental or physical disabilities who require specialized living arrangements, and (2) provides for such persons a home that is subject to the care and supervision of a responsible adult and (3) home is licensed by or has a contract with the Department of Human Services.

Transitional living center, re-entry facility, or homeless center

A community-based facility or center that provides room and board in a supervised living environment which may provide counseling or rehabilitation services.

3. MOBILE HOME PARK

A lot or multiple lots which mobile homes or manufactured housing units are available for lease or upon which spaces for mobile homes or manufactured housing units are available for lease.

B. Institutional/Public

1. AIRPORT

Facilities from which FAA-certified aircraft take off, land and operate, including all FAA certified airport facilities and including customary accessory uses and structures.

2. ART GALLERY OR MUSEUM

Any permanent institution for the collection and display of objects of art or science, sponsored by a public or quasi-public agency and open and available to the public.

3. LIBRARY

A permanent facility for storing and loaning books, periodicals, reference materials, audio and videotapes, and other similar media for use by the public.

4. COMMUNITY SERVICES

Uses including buildings, structures, or facilities owned, operated, or occupied by a governmental entity or private organization to provide a service to the public. Specific use types include, but are not limited to:

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Cemetery

Land or structures used for burial or permanent storage of the dead or their cremated remains. Typical uses include cemeteries and mausoleums. Also includes pet cemeteries.

Crematorium

A location containing properly installed, certified apparatus intended for use in the act of cremation. This use does not include a funeral parlor or public area.

Government administration and civic buildings

An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to: post offices, employment offices, public assistance offices, or motor vehicle licensing and registration services.

Places of assembly

A building or structure, or group of buildings or structures, intended primarily for the conducting of organized assembly. May include, but are not limited to religious facilities, assembly halls, and fraternal/social clubs. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

5. HOSPITAL

A building or portion thereof for the accommodation of sick, injured, or infirmed persons. Services regularly include the keeping of patients overnight.

6. CHILD CARE FACILITY

Child Care uses include facilities that provide care for children on a regular basis away from their primary residence. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Accessory uses include offices, recreation areas, and parking.

Child Care Center

Any place, home or institution which receives eight (8) or more children under the age of sixteen (16) years, for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of the state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or engaged in church activities.

Day care center or nursery school

A private establishment enrolling five or more children where tuition, fees, or other forms of compensation for the care of the children is charged and having a license or approval to operate as a child care center, under the provisions of the State of Oklahoma.

Home day care

State-licensed day care that is accessory to a household living use and that provides care and supervision for seven (7) or fewer children for less than twenty-four (24) hours per day.

7. EDUCATION

Education uses are public, private, and parochial institutions, which provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport

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facilities, auditoriums, and before- or after-school day care. Specific use types include, but are not limited to:

College or University

A degree-granting institution, other than a trade school, that provides education beyond the high school level. The use includes, but is not limited to, classroom buildings, offices, laboratories, lecture halls, athletic facilities, and dormitories.

Elementary

An educational institution that satisfies the compulsory education laws of the State of Oklahoma for students in elementary grades. This definition includes both public schools and private schools that have a curriculum similar to public schools.

Middle or High School

An educational institution that satisfies the compulsory education laws of the State of Oklahoma for students in secondary education. This definition includes both public schools and private non-boarding schools that have a curriculum similar to that in the permitted public schools.

Trade school

A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a trade or in industry, construction, or commerce, and meeting all applicable state requirements for a facility of its type.

8. PARKS AND OPEN SPACE

Park and Open Space uses focus on natural areas, consisting mostly of vegetative landscaping, outdoor recreation, or public squares. Lands tend to have few structures. Accessory uses may include but are not limited to clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking.

9. UTILITIES AND PUBLIC SERVICE FACILITY

Major

A service of a regional nature that normally entails the construction of new buildings or structures, and that typically has employees on the site on an ongoing basis. Examples include, but are not limited to, water works, reservoirs, power or heating plants, or steam generating plants.

Minor

A service that is necessary to support development within the immediate vicinity and that involves only minor structures. Employees typically are not located at the site on an ongoing basis. Examples include, but are not limited to utility lines, electric transformer stations; gas regulator stations; telephone exchange buildings; and well, water, and sewer pumping stations.

10. WIRELESS COMMUNICATION FACILITY

Towers, antennas, equipment, equipment buildings and other facilities used in the provision of wireless communication services. The following are wireless communication facility specific use types:

Freestanding tower

A structure intended to support equipment that is used to transmit and/or receive telecommunications signals, including monopoles and guyed and lattice construction steel structures.

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Building or tower-mounted antenna

The physical device that is attached to a freestanding tower, building or other structure, through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received.

C. Commercial

1. ANIMAL SERVICE

Uses that provide goods and services for care of animals, including the following specific use types:

Animal training

A facility that specializes in the training of household and large animals.

Boarding and shelter

Animal shelters, care services and kennel services for dogs, cats and small animals, including boarding kennels, pet resorts/hotels, pet adoption centers, and animal rescue shelters.

Grooming

Grooming of dogs, cats and similar small animals, including dog bathing and clipping salons and pet grooming shops.

Veterinary, small

An office or a clinic of a veterinarian where small animals or household pets are given medical, surgical, or health maintenance treatment. The boarding of animals is limited to short-term care incidental to the treatment clinic and must be a secondary use of the property.

Veterinary, large

An office or clinic of a veterinarian where small animals or household pets, as well as large animals, are given medical, surgical or health maintenance treatment. The boarding of large animals is limited to clinics of at least five (5) acres and is limited to short-term care incidental to the treatment clinic and must be a secondary use of the property.

2. BROADCAST OR RECORDING STUDIO

A building or portion of a building used as a place for radio or television broadcasting or recording but without a transmission tower.

3. FINANCIAL INSTITUTION

Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but does not include bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking.

4. FOOD AND BEVERAGE SERVICE

Food and Beverage Service businesses serve prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking. Specific use types include, but are not limited to:

Bar/nightclub

A structure or part of a structure used primarily for the sale or dispensing of alcoholic beverages or liquor by the drink. Dancing and musical entertainment are permitted.

Bakery

Establishments primarily engaged in the retail sale of bakery products, such as bread, cakes, and pies, of which are produced on the premises.

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Brewpub

An establishment that produces, bottles, and/or distributes small quantities of food or beverages that are not part of a restaurant type use. Typical examples include but are not limited to microbreweries, nanobreweries, brewpubs, wine blending, and limited food production.

Mobile Food Vendor

Mobile food service establishment is a facility that prepares food and is vehicle-mounted (is department of transportation road approved, including wheels and axles), is readily moveable and remains at one physical address for no more than 12 hours at one time.

Community Food and Farmer's Market

Sites that provide whole, fresh foods (including vegetables, mushrooms, herbs, nuts, shell eggs, honey, or other bee products, flowers, nursery stock, meat, milk, cheese and other dairy products, and fish) and value-added home processed farm products for sale or donation to the public. This may include farmer's markets, farm stands, or food hubs.

Restaurant

An establishment that serves food or beverages for on- or off-premise consumption as its principal business. The preparation and processing of food or beverages to be served or sold on-site directly to consumers is permitted as an accessory use to a restaurant, including on-site coffee roasting with a maximum roasting capacity of 45 kilograms per batch. Typical examples of restaurant uses include principal use restaurants, cafés, cafeterias, ice cream/yogurt shops, donut shops and coffee shops.

5. Lodging

For-profit facilities where lodging is provided to transient visitors and guests for a defined period. Specific use types include, but are not limited to:

Bed and breakfast

A detached dwelling in which the owner/operator offers overnight accommodations and meal service to overnight guests for compensation

Campgrounds and RV parks

An establishment that provides temporary overnight accommodations for camping in recreational vehicles or tents.

Hotel or motel

An establishment, other than a bed and breakfast, in which short-term lodging is offered for compensation. A hotel/motel may include an accessory use restaurant and bar.

6. Office

Office uses are characterized by activities generally focusing on business or professional services. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to:

Business or professional

An establishment that provides executive, management, administrative, or professional services, but not involving the sale of merchandise except as incidental to a permitted use. Typical examples include but are not limited to real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices.

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Medical, practitioner

Office uses related to diagnosis and treatment of human patients' illnesses, injuries and physical maladies that can be performed in an office setting with no overnight care. Typical uses include offices of physicians, dentists, psychiatrists, psychologists, chiropractors and practitioners of massage therapy. Surgical, rehabilitation and other medical centers that do not involve overnight patient stays are included in this use subcategory, as are medical and dental laboratories, unless otherwise expressly indicated. Ancillary sales of medications and medical products are allowed in association with a medical, dental or health practitioner office.

Research

A facility for conducting medical or scientific research, investigation, testing, or experimentation; however, this does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition includes electronic and telecommunications laboratories, including assembly.

7. RECREATIONAL AND ENTERTAINMENT, OUTDOOR

Outdoor Recreation and Entertainment uses provide recreation or entertainment activities outside of an enclosed environment. Accessory uses may include but are not limited to concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

Amphitheater

An oval or round stage area with tiers of seats around a central open area, which may or may not be covered.

General outdoor recreation

Intensely developed recreational uses such as amusement parks, miniature golf courses, commercial tennis courts, batting cages, skateboard or skate parks or courses, bicycle motocross courses, water parks or slides, drive-in movie theaters, courses for paramilitary games, and archery facilities.

Golf course

A tract of land laid out with a course having nine (9) or more holes for playing the game of golf, including any accessory clubhouse, driving range, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use. Depending on the district in which the course is located, the course may be either lighted or unlighted.

Major entertainment facility

A large open or partially enclosed space used for games or major events, and partly or completely surrounded by tiers of seats for spectators.

Marina

Facilities that provide moorage, launching, storage, fueling, supplies and services (other than repair) commonly associated with storing, maintaining and operating recreational and commercial watercraft.

Race track

A measured course where animals or machines are entered in competition against one another or against time, including tracks used only in the training of animals.

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Zoo

An area, building, or structures that contain wild animals on exhibition for viewing by the public.

8. RECREATIONAL AND ENTERTIANMENT, INDOOR

Indoor Recreation and Entertainment uses provide recreation or entertainment activities within an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

Fitness and recreational sports center

A facility primarily featuring equipment for exercise and other active physical fitness and/or recreational sports activities, such as swimming, skating, racquet sports, aerobic dance, gymnasium facilities, indoor soccer, yoga, and other kinds of sports and fitness facilities.

General indoor recreation

An establishment offering entertainment, game playing, or similar amusements to the public within an enclosed building. This shall include but are not limited to arcades, bowling alleys, billiard parlors, bingo parlors, laser tag parlors, and indoor shooting ranges.

Major entertainment facility

A use designed to accommodate activities that generally draw one thousand (1,000) persons or more to specific indoor events or shows. Activities are generally of a spectator nature. Examples include auditoriums, performing arts centers, arenas, and coliseums. Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

Movie theater

An indoor theater for the showing of motion pictures.

9. PARKING NON-ACCESSORY

Parking that is not provided to comply with minimum off-street parking requirements or that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A parking facility that provides both accessory and non-accessory parking will be classified as non-accessory parking if it leases 25% or more of its spaces to non-occupants of or persons other than visitors to a particular use. Specific non-accessory parking use types include surface parking and parking structures.

10. PERSONAL SERVICES

Establishments that provide individual services related to personal needs directly to customers at the site of the business, or that receives goods from or returns goods to the customer, which have been treated or processed at that location or another location. Specific use types include, but are not limited to:

Dry cleaning and laundry service

An establishment where laundry or dry cleaning is dropped off by customers or picked up by customers and that also includes on-site laundry and/or cleaning activities, including related operation of equipment and machinery. Establishments that do not include on-site cleaning activities are classified as "general personal services."

Funeral and mortuary service

An establishment for the preparation of the deceased for burial and rituals connected with, and conducted before, burial or cremation. This definition may include a facility for the permanent storage of cremated remains of the dead.

General personal services

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An establishment that provides care, advice, aid, maintenance, repair, treatment, or similar semi-technical, technical, or experienced assistance, other than the practice of a profession and wholesale or retail sale of goods. Examples included, but are not limited to, shoe repair, beauty and barber shops, massage therapy, tanning salons; and dry cleaning pick-up and drop-off shops that do not conduct dry cleaning on the premises.

Pharmacy

A store where medicinal drugs are dispensed and sold. A pharmacy may have a drive-through as an accessory use.

Studio, artist, or instructional service

Uses in an enclosed building that focus on providing individual or small group instruction or training in fine arts, music, dance, drama, fitness, language or similar activities. Also includes dance studios, ballet academies, yoga studios, martial arts instruction, tutoring, artist studios and photography studios.

11. RETAIL SALES

Uses involving the sale, lease or rental of new or used goods to the ultimate consumer.

Specific retail use types include the following:

Alcoholic beverages

A retail establishment, such as a liquor store, licensed to sell alcoholic beverages such as beer, wine, and liquor. No on-site consumption is allowed.

Building supplies and equipment

Retail sales uses that sell or otherwise provide goods to repair, maintain or visually enhance a structure or premises. Typical uses include hardware stores, home improvement stores, paint and wallpaper supply stores and garden supply stores

Consumer shopping goods

Retail establishments not elsewhere classified that provide goods directly to the consumer, including but are not limited to: apparel shops, appliance sales, auto parts store, bait shop, bakeries, bookstores, camera shops, clothing stores, convenience stores without gas pumps, department stores, electronic stores, factory outlet stores, florists, grocery stores, furniture stores, hardware and building material sales, pet shops, pawn shops, pharmacies, shoe stores, and toy stores.

Consumer shopping goods, large

A building that meets the definition of “consumer shopping goods” and is 75,000 square feet or greater.

Convenience store

An establishment engaged in the sale of convenience goods, such as but not limited to pre-packaged food items, tobacco, over-the-counter drugs, periodicals, and other household goods; and which also provides the retail sale of petroleum products that are dispensed through gasoline pumps and other supplies for motor vehicles.

Horticulture nursery sales

Land or buildings used to raise flowers, shrubs, trees, and other plants for retail sale.

Marijuana dispensary

Retail sales uses that sell or otherwise provide medical marijuana or medical marijuana products by the holder of a medical marijuana dispensary license issued by the Oklahoma

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State Department of Health, in accordance with the terms of such license, which may be sold or provided only to the holder of a medical marijuana patient or caregiver license.

Tobacco outlet

A tobacco retailer whose business exclusively or primarily involves the sale of tobacco products including e-cigarettes and tobacco vaping products and related goods.

Open-air market or flea market

Premises intended for individual vendors who display and sale merchandise in small quantities including but not limited to household goods, appliances, tools, food, and arts and crafts. The display and sale of merchandise may be indoor or outdoor in facilities including but not limited to building, open air, or partially enclosed booths or stalls. This definition does not include retail sidewalk sales or garage sales.

12. SELF-STORAGE FACILITY

An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses. Facilities are designed and used to accommodate only interior access to storage lockers or drive-up access only from regular size passenger vehicles and two-axle non-commercial vehicles.

13. SEXUALLY ORIENTED BUSINESS

Sexually oriented businesses include all of the following:

Adult Amusement or Entertainment

Amusements or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or related to 'Sexual Conduct' or 'Specified Anatomical Areas', as defined herein, including but not limited to topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.

Adult Bookstore

An establishment having as a significant portion of its stock in trade books, film, magazines, and other periodicals which are distinguished or characterized by an emphasis on depicting or describing 'Sexual Conduct' or 'Specified Anatomical Areas'.

Adult Mini Motion Picture Theater

An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing 'Sexual Conduct' or 'Specified Anatomical Areas'.

Adult Motel

A motel wherein material is presented, as part of the motel services, via closed circuit T.V., or otherwise, which is distinguished or characterized by an emphasis on depicting or describing 'Sexual Conduct' or 'Specified Anatomical Areas'.

Adult Motion Picture Arcade:

Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled, still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing 'Sexual Conduct' or 'Specified Anatomical Areas'.

Adult Motion Picture Theater

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An enclosed building with a capacity of 50 or more person used for presenting material distinguished or characterized by an emphasis on depicting or describing 'Sexual Conduct' or 'Specified Anatomical Areas'.

Massage Parlor

Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulations of the human body occurs as part of or in connection with 'Sexual Conduct' or where any person providing such treatment, manipulation or services related thereto exposes 'Specific Anatomical Areas'.

Model Studio

Any place where, for any form of consideration or gratuity, figure models who display 'Specified Anatomical Areas' are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuity.

Sexual Encounter Group

Any building or structure which contains, or is used for commercial entertainment where the patron directly or indirectly is charged a fee to engage in person contact with or to allow personal contact by, employees, devices, or equipment or by personnel provide by the establishment which appeals to the prurient interest of the patron, to include, but not be limited to bath houses, massage parlors, and related or similar activities.

14. VEHICLES AND EQUIPMENT

Vehicles and Equipment uses include a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage, offices, and sales of parts. Specific use types include, but are not limited to:

Boat and/or RV storage

A facility where boats and/or recreational vehicles are stored outside for seventy-two (72) hours or more.

Boat, RV, Trailer, Mobile Home sales

An establishment engaged in the display, sale, leasing, or rental of new or used trailers, recreational vehicles, boats, personal watercraft, utility trailers, and mobile homes.

Car wash

A facility for the cleaning of automobiles, providing either self-serve facilities or employees to perform washing operations.

Fueling station

Uses engaged in retail sales of vehicle fuels for personal vehicles, other than fleet fueling facilities and truck stops. Fueling stations may dispense conventional vehicle fuels and/or alternative vehicle fuels.

Truck stop

An establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck crews.

Vehicle sales and rentals

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An establishment engaged in the display, sale, leasing, or rental of new or used motor vehicles. Vehicles included, but are not limited to, automobiles, motorcycles, light trucks, vans, and all-terrain vehicles.

Vehicle service and repair, major

An establishment engaged in the major repair and maintenance of automobiles, motorcycles, trucks, vans, trailers, recreational vehicles, boats, mobile homes, or snowmobiles. Services include engine, transmission, or differential repair or replacement; body, fender, or upholstery work; and painting.

Vehicle service and repair, minor

An establishment engaged in light maintenance activities such as engine tune-ups; oil change or lubrication; carburetor cleaning; muffler replacement; brake repair; tire shops; and detailing and polishing. Vehicle parts are sold and are ordinarily installed on the premises. Major automotive repairs are prohibited except where specifically permitted by terms of a specific use approval.

Vehicle towing service

Establishment that provides for the removal and temporary storage of vehicles but does not include disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles.

Vehicle storage, operable vehicles only

A structure, space or part thereof used for the storage, parking, or servicing of motor vehicles but not for the repair thereof.

D. Industrial

1. INDUSTRIAL SERVICE

An establishment engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, or products. Specific use types include, but are not limited to:

Fossil fuel storage

A permanent facility for the storage of fossil fuels and fossil fuel byproducts including, but not limited to, gasoline, diesel fuel, and motor oil. Uses include those that store such products for transportation. Storage of gaseous products such as liquefied natural gas (LNG), compressed natural gas (CNG), butane, and propane for immediate use by the final consumer are included in this definition.

General industrial service

Establishments engaged in the storage, repair, or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Examples include but are not limited to: construction materials storage; welding shops, machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; repair or storage of heavy machinery; heavy truck servicing and repair; aircraft servicing and repair; tire retreading or recapping. Accessory activities may include retail sales, offices, parking, and storage.

2. MANUFACTURING AND PRODUCTION

An establishment engaged in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale

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market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters. Specific use types include, but are not limited to:

Assembly, light

An establishment engaged only in the assembly of goods. No manufacturing of parts occurs. Goods are shipped to the establishment, assembled, packaged, and reshipped

Manufacturing, light

An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The manufacture, assembly, research, or processing of products and goods occurs entirely within an enclosed structure requiring no outdoor industrial wastewater treatment system, and producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation. Outdoor storage of raw materials and products is permitted with proper screening. Examples include, but are not limited to: airplane, automobile, or truck assembly, remodeling, or repair; bottling works; boat building, computer chip manufacturing; machine or blacksmith shops; metalworking or welding shops; paint shops; and printing and publishing shops.

Manufacturing, heavy

Uses that do not meet the light manufacturing criteria set forth above. These uses have the potential to produce noise, vibrations, smoke, dust, and odor that have the potential to cause adverse impacts. Examples include, but are not limited to: refining or initial processing of raw materials; rolling, drawing, or extruding of metals; asphalt batching plants; sawmills; meat slaughtering or packing house; and manufacture or packaging of cement products, concrete batch plants, feed, fertilizer, flour, glue, paint, petroleum products, soap, turpentine, varnish, charcoal, or distilled products.

Marijuana growing

Uses involving the growing, harvesting and packaging of medical marijuana by the holder of a medical marijuana grower license issued by the Oklahoma State Department of Health, in accordance with the terms of such license. Does not include retail sales.

Major marijuana processing

An establishment in which the preparation, manufacture, processing or packaging of medical marijuana products by the holder of a medical marijuana processor license issued by the Oklahoma State Department of Health is conducted, in accordance with the terms of such license.

Minor marijuana processing

Production of medical marijuana edibles and other products using medical marijuana components processed or grown elsewhere.

3. MINING AND PROCESSING

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Involves extractive operations, certain mineral processing operations, and manufacturing operations, which directly utilize minerals, at or near the source.

Minerals and raw materials

Places primarily devoted to surface or subsurface mining, excavation, or extraction of metallic and non-metallic materials with essential on-site processing of such products. Typical uses are a borrow pit, sandpit, quarry, or mine.

Oil and gas

Places primarily devoted to sub-surface mining of oil and gas. Typical uses are oil and gas drilling operations.

4. WAREHOUSE AND FREIGHT MOVEMENT

Establishments engaged in the storage or delivery of goods. Accessory uses may include offices, truck fleet parking, and maintenance areas. Specific use types include, but are not limited to:

Motor freight terminal

A facility for freight pick-up, distribution, and storage. This may include intermodal distribution facilities for truck or shipping transport.

Office warehouse

A structure containing both offices and a warehouse for storing products associated with the business. The office component of this use shall be at least fifty percent (50%) of the overall floor area of the structure.

Storage yard

Any lot or portion of a lot that is used for the sole purposes of the outdoor storage of fully operable motor vehicles, construction equipment, construction materials, or other tangible materials and equipment.

Warehouse

A structure used for storing materials, goods, or property.

Wholesale establishment

An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers. Manufacturing, resource extraction, bulk storage of hazardous materials, or scrap or salvage operations are excluded.

5. WASTE AND SALVAGE

Waste and Salvage firms receive solid or liquid wastes from others for disposal on the site or for transfer to another location. The category includes uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste and Salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products. Specific use types include, but are not limited to:

Auto salvage yard

Any lot upon which two (2) or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license or registration, have been placed for the purpose of obtaining parts for recycling or resale.

Recycling center

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A facility in which recoverable resources such as newspapers, glassware, plastics, and metal cans are recycled, reprocessed, and treated to return such products to a condition in which they can again be used for production. This facility is not a junkyard or salvage yard.

Scrap operations

Places of business primarily engaged in the storage, sale, dismantling or processing of used or waste materials that are not intended for reuse in their original form. Typical uses include but are not limited to junk yards or salvage yards.

Solid waste disposal

A method or system of solid waste disposal in which the waste is disposed or buried in layers, compacted by earth or disposed by incineration.

E. Agriculture

1. ANIMAL HUSBANDRY

Uses that involve the feeding, housing and care of farm animals for private or commercial purposes.

2. COMMUNITY GARDEN

An area less than one acre in area that is managed and maintained by an individual, group or business entity to grow and harvest food crops or non-food crops (e.g., flowers). A community garden area may be divided into separate garden plots or orchard areas for cultivation by one or more individuals or may be farmed collectively by members of the group. Community gardens may be principal or accessory uses.

3. HORTICULTURAL NURSERY PRODUCTION

A use involving propagation and growth of trees or plants in containers or in the ground for wholesale or retail sales and distribution. Does not include on-site retail sales unless such sales are otherwise allowed in the subject zoning district.

4. AGRICULTURE, GENERAL

The production, keeping, or maintenance for sale or lease, of plants, including but not limited to: forages and sod crops; grains and seed crops; fruits and vegetables; and ornamental products; and unless expressly prohibited, the keeping of livestock, including but not limited to: dairy animals and dairy products; poultry and poultry products; cattle and cattle products; or horses. Agriculture does not include forest management and timber harvesting activities.

5. LIVESTOCK SALES

Services involving the temporary keeping of livestock for slaughter, market, or shipping. Typical uses include stockyards and animal sales in auction yards.

Section 11.3 Other Definitions

Accessory

A use, building or structure, part of a building or other structure which is subordinate to and the use of which is customarily incidental to that of the main building, structure or use on the same lot, including a private garage and storm shelters, except that accessory off-street parking need not be located on the same lot with the principal use to which it is accessory. If any accessory building is attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building.

Accessory dwelling

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A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Alley

A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Board of Adjustment

The board of Adjustment of the City of Tahlequah.

Board

Means Board of Adjustment, unless the context clearing indicated otherwise.

Building

Any structure intended for shelter, housing or enclosure for persons or chattel. When separated by dividing walls without opening, each portion of such structure so separated, shall be deemed a separate building.

Building, main

A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

Building Official

The official designated by City of Tahlequah to administer and enforce these regulations.

Chief Executive

Mayor of the City of Tahlequah

Certificate of appropriateness

The official document issued by the Historic Preservation Commission authorizing work within the Historic Preservation District.

City

City of Tahlequah

Clerk

The clerk of the City of Tahlequah.

Commission

The City of Tahlequah Planning Commission.

Comprehensive plan

The Comprehensive Plan of the City of Tahlequah.

County

Cherokee County, Oklahoma.

Coverage

The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.

Design Guidelines

The criteria which shall be used to guide the Historic Preservation Commission in review of an application for a Certificate of Appropriateness.

Detached dwelling

A dwelling which is entirely surrounded by open space on the same lot.

Development Plan

A plan that provides specific regulations for a Planned Unit Development (PUD) . The plan depicts site characteristics and development information and provides guidance for site plans for the PUD.

Director

The Planning and Development Director, or other official so designated by the governing body.

District

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An area or areas within the limits of the city for which the regulations and requirements governing use, lot, and size of building and premises are uniform.

Dwelling structure

Any building or portion thereof which is designed or used as living quarters for one or more families.

Dwelling unit

One room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Family

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five persons.

Fence, ornamental

An open fence other than a chain link or barbed wire fenced intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line, or frame a driveway, walkway, or planting bed. Ornamental fences are often of the rail or wrought iron type.

Flood district

A zoning district whose designation begins with the letters "FD."

Floor area

The total square feet of floor space within the outside dimensions of a building including each floor level, halls, lobbies, stairways, elevator shafts, basement, and covered exterior balconies, but not including covered parking areas or garages in residential developments.

Floor area ratio (FAR)

The floor area on a lot divided by the area of the lot.

Gross floor area

The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Governing body

The City Council.

Home occupation

An occupation conducted in a dwelling as a use accessory to the residential use of such unit.

Highway commercial corridor

The corridor shall include land and lots abutting the southwest bypass (State Highway 51), the southeast bypass (State Highways 51, 82 and U.S. Highway 62), the northeast bypass (State Highway 82), the northwest bypass State Highway 51-Spur), and State Highways 51 and 82 and U.S. Highway 62 outside the loop of the bypass and inside the city limits of the City of Tahlequah.

Historic Preservation District

A supplemental zoning district consisting of a building, structure, or site or an area containing buildings, structures, or sites which may have within its boundaries other property or structures which are not of such historic and/or architectural significance to be designated as landmarks, nevertheless, contribute to the overall visual characteristic of the district.

Historic Resource

A building, structure, or site, or an area containing a concentration, linkage, or continuity of buildings, structures or sites which are generally fifty years or older and which contain one or more of the following attributes:

1. Has significant character, interest, or value as part of the historical development, history or cultural heritage of the City, State, or Nation;
2. Has significant as the site of a historic event in the past of the City, State, or Nation;

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3. Associated with a person or group of persons, who played a significant role in the historical development, history and cultural heritage of the City, State, or Nation;
4. The embodiment of distinguishing characteristics, design detail, materials or craftsmanship which represent a historically significant architectural or engineering innovation, type, style or specimen;
5. It portrays the environment in an era of history characterized by a distinctive architectural, engineering, or construction style;
6. It represents a significant and distinguishable entity of historical importance whose components may lack individual distinction;
7. Has yielded, and is likely to yield, important information in prehistory or history;
8. Meets the criteria for listing on National Register of Historic Places.

Landscaped area

The unpaved area that contains, grass, shrubs, flowers, ground cover, trees, or native plant materials of any kind and that may include decorative features or accoutrements such as rocks, pools, and planters.

Does not include artificial plants, trees, or vegetation. ***Landscaped Island***

Unpaved area located within or protruding into a parking lot or the center of an entry into a development's drive or street. The area of a landscaped island is measured from back of inside curb to the back of inside curb.

Livability open space

Land which is free of structures or impervious surfaces.

Lot

For the purposes of these regulations, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have a frontage on an improved public street, or on an improved private street, and may consist of:

- 1) A single lot of record;
- 2) A portion of a lot of record;
- 3) A combination of complete lots of record and portions of lots of record, or of portions of lots of record;
- 4) A parcel of land described by meets and bounds.

Provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of these regulations.

Lot

Any plot of land occupied or intended to be occupied by one main building, and accessory buildings and uses, including such open spaces as are required by this Ordinance and other laws or ordinances, and having its principal frontage on a street.

Lot area

The total area included within lot lines measured on a horizontal plane.

Lot, corner

A lot which has at two adjacent sides abutting for their full length on a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

Lot, depth

The distance between the midpoints of a straight line connecting the foremost points of the side lot lines and a straight line in connecting the rearmost points of the side lot lines.

Lot frontage

The length of a front lot line.

Lot, interior

A lot other than a corner lot.

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Lot lines

The lines bounding a lot, as defined herein.

Lot line, front

Any street line, provided that:

1. In the case of a corner lot having street lines of unequal length, the shorter of such lines shall be deemed a front lot line and longer of such lines shall be deemed a side lot line;
2. In the case of one end of a block bounded on three sides by streets, the street line at the end of the block shall be deemed a lot line and the other two street lines shall be deemed front lot lines;
3. In the case of a lot consisting of an entire block:
 - a. If the streets are not of equal length, the longer sides shall be deemed front lines and the shorter sides shall be deemed side lot lines;
 - b. If the sides are of equal length, all sides shall be deemed front lot lines.

Lot line, rear

A lot line (other than a line designated elsewhere herein as a front lot line or side lot line) which is opposite and most distant from a front lot line, except as follows:

1. In the case of irregular, triangular, or gore-shaped lot; a line ten feet long within the lot, parallel to and the maximum distance from the front lot line.
2. In the case of a through lot or part thereof at least 150 feet deep bounded by two street lines and two other straight lines intersecting such street lines; a line midway between the street lines.
3. In the cases of portions of a through lot that cannot be bounded by two street lines and two other straight lines intersecting such street lines and a lot bounded entirely by street lines: a line or lines, ordinarily at or near the midline of the block, determined by the inspecting officer after consideration of the existing platting pattern in the immediate vicinity of such lot.

Lot line, side

A lot line other than a front lot line or a rear lot line.

Lot of record

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

Lot width

The distance between lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of any lot on the turn-around of a cul-de-sac, where 80 percent requirement shall not apply.

Major street or highway

A street so designated in the Comprehensive Plan.

Nonconforming structure

A structure or portion thereof, which was lawfully erected or altered and maintained but which, because of application of these regulations to it no longer conforms to the regulations of the district in which it is located as defined by these regulations.

Nonconforming use

A use which was lawfully established and maintained but which, because of the application of these regulations to it, no longer conforms to the use regulations of the district in which it is located as defined by these regulations.

Open Space

Land which is free of structures or impervious surfaces which are not directly related to the use of the open space.

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Ordinary Maintenance and Repairs

Any work for which a building permit or other City permit or certificate is not required and where the purposes of stabilization, and further where such work will not noticeably change the exterior appearance of the resource. Any work not satisfying all of the above requirements shall not be considered ordinary maintenance and repair. The construction or enlargement of driveway or parking areas, the replacement of exterior doors or windows except repairs for broken glass or screens shall not be considered ordinary maintenance or repair

Parking space, off-street

A parking space meeting the requirements of this Ordinance.

Permitted Use

A use allowed by right within the applicable zoning district, subject to all applicable requirements of this Ordinance.

Person

An individual, corporation, partnership, trust or other association.

Planning commission

The City of Tahlequah Planning Commission

Playgrounds

Any area used for outdoor play or recreation, especially by children, and often containing recreational equipment such as slides and swings.

Public Agency

The United States and any department, commission, agency, or other instrumentality thereof; the State of Oklahoma and any department, commission, agency or other instrumentality thereof; the City of Tahlequah and any department, commission, agency, or other instrumentality thereof; any school board, authority or governmental entity.

Public Hearing

A meeting called by a public body for which public notice has been given and which is held in a place at which the public may attend to hear issues and to express their opinions.

Major recreational equipment

A travel trailer, pickup camper, converted bus, tent trailer, tent or similar device used for temporary portable housing.

Refuse collection receptacle

Any container used or designed to collect, transport, or dispose of refuse, waste, or the like. This includes dumpsters, garbage cans, or grease containers.

School

Any property, building, permanent structure, facility, auditorium, stadium, arena or recreational facility owned, leased, or under the control of a public school district or private school or any educational facility that is accredited by the State of Oklahoma. School includes all licensed childcare facilities, kindergartens, elementary schools, which may include K-6 or K-8, and all secondary school. Including any institution within the Oklahoma State System of Higher Education or any other public or private college or university that is accredited by a national accrediting body.

Screening

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Signs

Any writing, picture, drawing, decoration, emblem, trademark, flag, banner, statue, or any other object of similar character which is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, or announcement.

Sign, animated

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A sign having visible moving parts or moving lights.

Sign, banner

A sign made of lightweight fabric or similar material with no enclosing framework that is mounted to a building or other structure at one or more edges.

Sign, building

A sign attached to or painted on any part of a building, including wall, awning, canopy and projecting signs.

Sign, changeable copy

A sign with letters, characters, or graphics that are not permanently affixed to the structure, framing or background allowing the letters, characters or graphics to be modified from time to time manually or by electronic, digital, or mechanical devices, such as a bulletin board or electric message board, maintained so that the entire message is shown at once.

Sign, freestanding

A sign which is placed on or anchored to the ground or is supported by a sign structure that is placed on or anchored to the ground and is independent from any building or other structure.

Sign, instructional

A sign that has a purpose secondary to the use on the lot and that is intended to instruct employees, customers or users as to matter of public safety or necessity, such as specific parking requirements, the location or regulations pertain to specific activities on the site or in the building and including a sign erected by a public authority, utility, public service organization or private industry that is intended to control traffic, direct, identify, or inform the public or provide needed public service as determined by the rules and regulations of governmental agencies through public policy.

Sign, number

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements each element shall be considered to be a single sign.

Sign, off-premises advertising

A sign which directs attention to a business, commodity, service or establishment which is entirely or primarily conducted, sold, or offered elsewhere than on the lot on which the sign is located.

Sign, projecting

A sign that is attached to a building wall and extends perpendicular to (or approximately perpendicular to) the building wall.

Sign, real estate

A temporary sign advertising the sale, rental, or lease of the premises on which it is maintained or identifying architects, builders, contractors, financial institutions, or engineers during the period of construction of a structure on the premises.

Sign, sandwich board

A sign composed of two large surfaces bearing placards, hinged at the top, which can be placed in an "A" shape on the ground.

Sign, temporary

Any sign, banner, pennant, balloon or similar device or display which is intended for a temporary period of display constructed of cloth, canvas, light fabric, cardboard, wood or other light materials, with or without frames.

Sign, Vehicle

A sign displayed on a motor vehicle, including trucks, buses, or other motor vehicles such as moving vans, delivery trucks, rental trucks and the like, and trailers, whether or not attached to a motor vehicle,

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but not including vehicles or trailers used for commercial transit and licensed by the State of Oklahoma, such as taxies and buses.

Sign, wall

A sign attached to and supported by the exterior surface of the wall of a building or structure in a plane substantially parallel to that of the supporting wall including a sign painted directly on the surface of the building.

Sign, wayfinding

A sign directing motorized and non-motorized traffic to specific destinations and/or attractions. Said signs may be located within the right-of-way.

Signable Area

That portion of the building façade unbroken by doors or windows upon which a wall sign is or may be located. It is calculated by selecting a continuous façade, then drawing the largest possible imaginary rectangle unbroken by doors or windows and computing the square foot area of this rectangle.

Sight triangle

The area required to be clear of obstructions at the intersections of streets, highways, railroads, alleys, and driveways.

Site plan

A plot of a lot, drawn to scale, showing the actual measurements of the lot, the size and location of any existing or proposed buildings or other improvements, and the location of the lot in relation to abutting streets.

Special exception

A use or a design element or characteristic or a use or development that is not permitted by right because of potential adverse effect, but that if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the Board of Adjustment. In order to be approved as a special exception, the special exception must be expressly authorized by this zoning code and reviewed in accordance with the substantive and procedural standards of this zoning code.

Special flood hazard area

The land area covered by the floodwaters of the base or 100-year flood as depicted on the most recent Flood Insurance Rate Map (FIRM).

Stacking, Drive-through

An area of temporary queuing of motor vehicles in a parallel line, one in back of the other.

Street

A public or private right-of-way, highway, road, land, square, court, or way set aside as a permanent right-of-way for street purposes, affords the principal means of access to abutting property.

Street, half

Any street platted twenty-five feet or more in width, where at the time of approval of the plat it is the intent of the governing body that said street dedication shall constitute only a part of the total street easement width.

Street, intersection

Any street which joins another street at an angle, whether or not it crosses the other.

Structure

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

Subdivision regulation

The subdivision regulations of the City of Tahlequah.

Tobacco

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Any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and liquids used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Town house

One of a series of three or more attached dwelling units, separated from one another by continuous vertical party walls without opening from basement floor to roof.

Town house, individual lot

A zoning lot on which there is built or is proposed to be built one town house.

Variance

An adjustment in the application of the specific provisions of these regulations to a particular piece of property which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zoning district and which adjustment remedies disparities in privileges.

Window Area

Any opening in a wall or roof which functions or appears to function to admit light to a building or structure.

Work

Any changes to an existing building, structure, lot or any portion thereof, including but not limited to the erection, construction, reconstruction, renovation, alteration, painting, removal, or demolition of a building, structure, or lot, irrespective of whether or not a building permit is required.

Yard

An open space, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in these regulations that an accessory building or structure may be located in a portion of a yard required for a main building.

Yard, depth or width of

In measuring a yard for the purposes of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, front

A yard extending along the full length of a front lot line.

Yard, rear

A yard extending across the rear of the lot between inner side yard lines.

Yard, side

A yard extending along a side lot line with the rear line of the front yard to the rear line of the lot.