

# **Avoca**

  

# **Zoning Code**

Adopted by Ordinance No. 97 – August 2013

TOWN OF AVOCA  
ZONING CODE

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TOWN OF AVOCA  
ZONING CODE

SECTION 1. DEFINITIONS

The following definitions shall be used in the interpretation hereof. Words used in the present tense include the future tense, and words in the singular include words in the plural. The word “used” shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used. The word “shall” means mandatory, and the word “may” means permissive.

Accessory Buildings and Uses: A subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is a use that is customarily incidental, appropriate, and subordinate to the principal use of land and buildings, and located upon the same lot therewith.

Alley: A minor permanent public service way, not in excess of twenty (20) feet, which is used primarily for vehicular service access to the back or the side of properties otherwise abutting a street.

Apartment: A room or suite of rooms within a building with separate cooking, bathing, and sleeping facilities and intended as a single dwelling unit. Structures containing three (3) or more dwelling units are considered apartments.

Area: The amount of land surface in a lot or parcel of land.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or property of any kind. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

Building Coverage: The land area covered by all buildings on a lot, excluding eaves.

Building Height: The average vertical distance from the finished lot grade to the highest point of the building.

Building Line: A line parallel to a lot line establishing an area between it and the lot line where no portion of the building may be erected. Such prohibition shall exclude landings, open balconies, and roof overhangs, subject, however, to the further requirements of this ordinance. Measurements shall be made from the nearest wall or supporting post, whichever is closest to the lot line.

Building & Farm Supply Company: Any establishment that sells hardware, tools, lumber and other supplies related to building, farm, or home care.

Cemetery: A place for burial of human remains, excluding crematoriums.

Church: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship. Accessory uses shall include day-care facilities and other non-profit, church associated uses.

Clinic: A facility for diagnosis and treatment of medical, chiropractic, dental or psychological outpatients, and which may be used by one or more practitioners.

Clubs and Lodges: An association of persons for the non-profit promotion of some common purpose, such as charity, fellowship, or something similar.

Convalescent Home: A health care facility, including rest homes and nursing homes, where persons are housed and furnished with meals and continuing nursing services.

Day Care Center: A commercial establishment where childcare services are provided pursuant to State laws and fire codes, and in accordance with and licensed by appropriate State agencies.

Day Care Family Home: A home where day care services are provided to a maximum of ten (10) children, with a maximum of two (2) adults in attendance. The operator shall reside in the structure, and the facility must conform to all codes and regulations, both State and local, applicable thereto, with the most restrictive regulations prevailing.

Development: The act of changing the state of a tract of land after its function has been purposefully changed by man; including, but not limited to, structures on the land and alterations to the land.

Development Plan: A dimensioned presentation of the proposed development of a specified parcel of land which reflects thereon the location of buildings, easements, parking arrangements, public access, and other similar and pertinent features.

District: A portion or section of the Town within which uniform zoning regulations apply.

Drive-In Establishments: A facility where services or products are delivered to persons in vehicles by means of a drive-up window or carhop.

Dwelling: A building used exclusively for single-family residential occupancy.

Dwelling, Attached: A dwelling that is joined to another dwelling at one (1) or more sides by a wall or walls.

Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot.

Dwelling, Manufactured, Residential-Design: A single-family, manufactured housing unit which has a minimum width of twenty-four feet (24'), with width measured perpendicular to the longest axis at the narrowest part, a pitched roof, and siding and roofing materials which are

customarily used on site-built homes, and which complies with all of the standards specified herein. The placement of such units older than six (6) years of age shall not be permitted in Avoca. As a condition of any permit to locate such a unit in the town, evidence of a satisfactory life-safety inspection, performed by a qualified official, shall be provided. Such an inspection shall be a pre-requisite to bringing such a unit into the corporate limit.

Dwelling, Single-Family: A residential dwelling unit designed for or occupied by one family only, and being on a permanent foundation.

Dwelling Unit: A room or group of rooms located within a dwelling forming a habitable unit for one family.

Family: An individual or two or more persons related by blood or marriage or a group of not more than three (3) persons who need not be related by blood or marriage living together and subsisting in common as a single non-profit housekeeping unit utilizing only one kitchen.

Farm: A parcel of land used for growing or raising of agricultural products including related structures thereon.

Frontage: That edge of a lot bordering a street.

Kennel: The use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats or both, or the keeping of more than five (5) dogs and/or cats. The word "selling" as herein used shall not be construed to include the sale of animals four (4) months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over four (4) months old by persons not operating a kennel as herein described.

Lot: A platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.

Lot, Corner: A lot with frontage on two (2) streets at their intersection.

Lot, Width: The average of the horizontal distances of the front and rear lot lines.

Natural Area: An area that is substantially undisturbed by development.

Nonconforming Structure or Use: A structure or land use which existed lawfully on the date that this Code or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations in the Code or amendment thereto.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Parcel: A tract of land separately designated and delineated by identifiable, legally recorded boundary lines.

Park: An area open to the general public and reserved for recreational, educational or scenic purposes.

Parking Area: An area of land used or intended for off-street parking facilities for motor vehicles.

Principal Use: The chief or main recognized use of a structure or of land.

Property Line: The legally recorded boundary of a lot, tract, or other parcel of land.

Setback: The distance between the front of a building and the street right-of-way line.

Sign: Any device or structure designed or intended to convey information to the public in written or pictorial form. The placement of portable, flashing, and animated signs of all types shall be permitted only after approval of the planning commission, and shall be temporary in nature, with placement not to exceed twenty (20) days. All billboards and similar outdoor off-premise advertising signs shall be expressly prohibited—however official signs shall be permitted. In addition, banners of all types are expressly prohibited unless specifically approved by the planning commission.

Sign, Bulletin: A sign erected by a church, school institution, or public agency on its premises for announcements.

Sign, Commercial: A sign which directs attention to a service, product, profession, business or entertainment, conducted, sold or offered on the same lot.

Sign, Nameplate: A sign bearing the name and/or address, occupation, phone number of persons or uses occupying the premises. Gated community/subdivision signs shall be expressly permitted.

Sign, Official: Signs on public property for informing the public.

Signs, Temporary Real Estate: Temporary signs advertising the premises for lease, rent, or sale.

Story: The horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.

Use: Any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

Yard: An open area between the building lines and the lot lines of the lot on which it is located.

## SECTION 2. OFFICIAL ZONING MAP

a. The Town is hereby divided into districts, or zones, as hereinafter described, and as shown on the Official Zoning Map. This map, together with all explanatory data thereon, is hereby adopted by reference, and declared to be a part of this Code.

b. The Official Zoning Map shall be certified as such by signature of the Mayor, attested by the Recorder/Treasurer.

c. If, in accordance with the provisions of this Code, changes are made in district boundaries or other data portrayed on the Official Zoning Map, such change shall be made on said map within thirty (30) days after the amendment has been approved by the Town Council.

d. No changes of any nature shall be made in the Official Zoning Map or information shown thereon, except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or person shall be considered a violation of this Code, and punishable pursuant to provisions contained herein.

e. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Recorder/Treasurer shall be the final authority as to the current zoning status of property in the Town.

f. Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the Zoning Official shall employ the following rules in interpretations thereof. Decisions of the Zoning Official are subject to appeal to the Board of Zoning Adjustment as herein provided.

- (1) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
- (3) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (4) Boundaries indicated as following shorelines shall be construed to follow such shore-lines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
- (5) Boundaries indicated as parallel to or extensions of features indicated above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- (6) Whenever any street alley, or other public way is vacated or abandoned by action of the Town Council pursuant to law, the zoning district boundaries on each side of such street, alley, or public way shall be automatically moved to the centerline of same and all area included therein shall then and henceforth be subject to all appropriate regulations of the extended districts.

### SECTION 3. ADMINISTRATION AND ENFORCEMENT

a. The Zoning Official shall be designated by the Mayor, and shall be responsible for the administration and enforcement of this Code subject to exceptions contained herein. He may enter upon any premises to perform any duty imposed by this Code.

b. If the Zoning Official shall find that any of the provisions of this Code are being violated, he shall notify the person, as well as the property owner of record, both of whom shall be responsible for such violation, in writing. Said notice shall indicate the nature of the violation and order the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or changes thereto; discontinuance of any illegal work being done; or he shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

c. No permit shall be issued for the erection, alteration, or moving of a building or structure until after the Zoning Official has reviewed the request and determined that such is in compliance with provisions of this Code. All requests shall be registered at Town Hall, and all authorizations to proceed shall be issued from Town Hall.

d. All applications for permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations of existing buildings, if any, on the lot; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Official, including existing or proposed buildings or proposed uses of the building and land; the number of families, house-keeping units, or rental units the building is designed to accommodate; conditions existing on the lot and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Code. One copy of the plans shall be returned to the applicant after the Zoning Official shall have marked such copy either as approved or disapproved and attested to same, by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Official.

e. It shall be unlawful to use or occupy or permit the use or occupancy of any building or property, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a determination of compliance with the Code is given by the Zoning Official. The Zoning Official shall maintain a record of all authorizations, and copies shall be furnished upon request to any person. Failure to obtain proper authorization shall be a violation of this Code and punishable pursuant to provisions contained herein.

f. The Zoning Official shall be responsible for addressing all questions regarding interpretation and enforcement of this Code. Decisions of the Zoning Official shall be appealable only to the Board of Zoning Adjustment. Decisions of said Board shall be subject to appeal only to a court of record having jurisdiction.

g. Whenever a violation of this Code 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 filed

with the Zoning Official, who shall record properly such complaint, immediately investigate and take action thereon, as provided by this Code.

h. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements. Whenever these requirements are at variance with the requirements of any other lawfully adopted rules or regulations, the most restrictive, or that imposing the higher standards, shall govern. The Town shall not be responsible for enforcing deed restrictions or covenants.

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

j. Violation of the provisions of this Code or failure to comply with any of its requirements shall constitute a misdemeanor. After the expiration date indicated by the notice of violation, any person who violates this Code or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than two hundred and fifty dollars (\$250.00). In addition, anyone so convicted shall be responsible for paying all costs and expenses involved in the case. After the expiration date indicated by the notice of violation, each day such violation continues shall be considered a separate offense.

#### SECTION 4. BOARD OF ZONING ADJUSTMENT

a. A Board of Zoning Adjustment is hereby established, which shall be composed of the Planning Commission as a whole.

b. The Board of Zoning Adjustment shall establish regular meeting dates, adopt rules and procedures for the conduct of its business, and keep a public record of all findings and decisions.

c. Each session of the Board shall be a public meeting with public notice of said meeting and business to be carried on published in a newspaper of general circulation in the Town one (1) time, at least seven (7) days prior to the meeting.

d. The Board of Zoning Adjustment shall have the following functions:

- (1) Hear appeals from decisions of the Zoning Official in respect to the enforcement and application of this Code; and may affirm or reverse, in whole or in part, said decision of the Zoning Official.
- (2) Hear requests for variances from the literal provisions of this Code in instances where strict enforcement would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of this Code. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted in that zone. The Board may impose

conditions in the granting of a variance to insure compliance and to protect adjacent property.

e. A variance is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited, or not specifically permitted, shall not be allowed by a variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining district.

f. The Board of Zoning Adjustment shall issue approval of a variance only after finding that:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are applicable to other lands, structures, or buildings in the same district;
- (2) Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code;
- (3) The special conditions and circumstances do not result from the actions or proposed actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

g. Any resident or taxpayer of the Town of Avoca aggrieved by any decision of the Board of Zoning Adjustment may appeal said decision only to a court of record having jurisdiction.

#### SECTION 5. GENERAL PROVISIONS

a. No land shall be used or occupied, no structure shall be erected, moved, converted, altered, enlarged, used or occupied, and no use shall be operated, unless it is in conformity with the regulations herein prescribed for the district in which such structure or land is located. This provision shall not be construed to affect any uses or land or structure that existed at the effective date of this Code. Existing non-conforming lots may be utilized in accordance herewith.

b. No open space required by these regulations for a particular structure or use shall be claimed at the same time as open space for another structure or use.

c. No lot, open space, parking or loading space shall be reduced in area or dimension below that required by these regulations, except pursuant to decisions of the Board of Zoning Adjustment.

d. Any use of structure or land lawfully existing or one for which a permit has been lawfully issued at the effective date of these regulations may be continued subject to provision herein.

e. All structures constructed or occupied in conformance with this Code shall also conform to all other codes and regulations of the Town. Also, as a condition of the authorization to build

or locate a structure in the Town, applicants shall acknowledge their legal obligation and responsibility to comply with all provisions of the 2007 Arkansas Fire Prevention Code, which is based on the 2006 International Fire, Building, and Residential Codes. Responsibility for compliance with American's With Disability Act (ADA) provisions rests, in all respects, with the applicant and the property owner.

f. No structure or planting shall be placed in any yard so that it interferes with the visibility at intersections.

g. Dedication to the public use of land shall not be a condition for any zoning or conditional use approval.

h. Land annexed into the Town of Avoca shall, upon the annexation's effective date, exist with a zoning classification of R1 until the property is evaluated and, if appropriate, a more suitable zoning classification is assigned.

i. Off-street parking facilities and off-street loading facilities shall be provided on the site for each use as prescribed herein.

j. Each permitted use or lot shall have access to a public street or road, provided that such may be connected to a public street by an easement for access purposes, such being of record, at least twenty feet (20') in width.

k. The provisions of these regulations are severable. If any section, paragraph, sentence, or clause shall be declared invalid, the remainder of the regulations shall not be affected.

l. It is expressly understood that all districts provide for the compatible existence of agricultural activities and uses. Equine (horses) and Bovine (cows) may be kept in any zone, provided the pasture is at least two (2) acres, and provided the density does not exceed 1 horse or cow/acre. An accessory structure may be permitted for sheltering a horse or cow on a lot or parcel with a minimum area of two (2) acres, provided: (1) The structure is at least 100 feet from adjacent property lines; (2) No more than 1 horse or cow/acre is kept and sheltered on the property; and (3) The stall area does not exceed 450 square feet.

## SECTION 6. NONCONFORMING STRUCTURES AND USES

### a. Continuance of Use

- (1) Any lawfully established use of a structure or land, on the effective date of this Code, or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- (2) Any legal nonconforming structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.

- (3) Any structure, for which a building permit has been lawfully granted prior to the effective date of this Code, or of amendments hereto, may be completed in accordance with the approved plans. Such building shall thereafter be deemed a lawfully established building.

b. Discontinuance of Use

- (1) Whenever any part of a structure or land occupied by a nonconforming use is changed to, or replaced by, a use conforming to the provisions of this Code, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.
- (2) Whenever a nonconforming use of a structure or part thereof, has been discontinued or abandoned for a period of one (1) year or more, such use shall not be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.
- (3) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner.
- (4) A use not authorized by the Town of Avoca, in effect at the time this Code becomes effective, shall be discontinued and not re-established, except when such use shall be in conformance with the provisions of this Code.

c. Change of Use

The nonconforming use of any structure or portion thereof may be occupied by another similar, or less intense, nonconforming use, as may be determined by the Zoning Official, subject to appeal to the Board of Zoning Adjustment. No building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restrictive use.

d. Removal of Nonconforming Structures and Uses

All nonconforming signs, billboards, portable signs, and outdoor advertising structures that were not located or constructed pursuant to law, shall be removed within six (6) months after the effective date of this Code.

e. Repairs and Alterations

- (1) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted.
- (2) Alterations may be made when required by law, or when such alterations will actually result in eliminating the nonconforming use.
- (3) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.

- (4) A structure that is nonconforming with respect to yards, height or any other element of bulk regulated by this Code, shall not be altered or expanded in any manner that would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located. (Bulk regulations are contained in the height, area, and building regulation provisions of each respective district).

f. Damage and Destruction

- (1) If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by any means to the extent of sixty percent (60%) or more of its replacement value at that time, the structure can be rebuilt or used thereafter only in compliance with the provisions of the district in which it is located.
- (2) In the event the damage or destruction is less than sixty percent (60%) of its replacement value based upon prevailing costs, the structure may then be restored to its original condition and the structure and use thereof may then continue as before the partial destruction.
- (3) In either event, restoration or repair of the structure or other structure must be started within a period of six (6) months from the date of damage or destruction, and diligently pursued to completion. Failure to exercise the options herein provided within the time specified shall be considered a voluntary abandonment and structure(s) may be rebuilt and used thereafter only for a conforming use and in compliance with provisions of the district in which it is located. Existing non-conforming lots may be utilized.

SECTION 7. DISTRICT REGULATIONS

a. Establishment of Districts

The following zoning districts, which may be referred to by their abbreviations, are hereby established:

R1	Residential
R2	Residential
B1	Neighborhood Commercial
B2	General Commercial
I	Industrial

b. A description of each district follows:

**(1) R1, Residential**

(a) Description and Intent

This district is intended for application in new single-family residential areas, and previously platted areas generally conforming to requirements of this district, and conditional uses not inconsistent with the residential character of the area.

(b) Permitted Uses

Single-Family Residences  
Home Occupations

Accessory Buildings & Uses  
Day Care Family Homes

(c) Not Permitted

Manufactured Dwelling

(d) Conditional Uses

Cemeteries & Churches  
Parks & Recreational Areas

Clubs & Lodges  
Public & Semi-Public Uses

\*Similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(e) Lot Dimensions

Minimum Area	½ acre
Minimum Width at Building Line	100 feet
Minimum Front Setback	25 feet
Minimum Side Setback	10 feet (street side 20')
Minimum Rear Setback	10 feet

(f) Parking Requirements

Two (2) off-street parking spaces shall be required for each single-family residence. For other uses, see Section 10.

(g) Height, Building, & Area Regulations

1. No building shall exceed two and one-half stories, nor shall it exceed thirty-five feet (35') in height.
2. Accessory buildings shall be located:
  - a. in the rear yard
  - b. in the side yard, behind the front setback, as long as not in front of primary structure or residence
3. Only one dwelling unit per lot, regardless of lot size, shall be permitted.

**(2) R2, Residential**

(a) Description and Intent

This district is intended for application in existing residential areas characterized by single-family structures, including manufactured homes; and in newly platted areas where decentralized sewer facilities are to be provided.

(b) Permitted Uses

Single-Family Residences	Accessory Buildings & Uses
Manufactured Dwelling (see Sec. 10)	Day Care Family Homes

(c) Conditional Uses

Cemeteries & Churches	Clubs & Lodges
Parks & Recreational Areas	Public & Semi-Public Uses

\*Similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(d) Lot Dimensions

Minimum Area	½ acre
Minimum Width at Building Line	100 feet
Minimum Front Setback	25 feet
Minimum Side Setback	10 feet (street side 20')
Minimum Rear Setback	10 feet

(e) Parking Requirements

Two (2) off-street parking spaces shall be required for each residential dwelling unit. For other uses, see Section 10.

(f) Height, Building & Area Regulations

1. No building shall exceed two and one-half stories, nor shall it exceed thirty-five feet (35') in height.
2. Accessory buildings shall be located:
  - a. in the rear yard
  - b. in the side yard, behind the front setback, as long as not in front of primary structure or residence
3. Each principal structure shall have a minimum total dimension on each side of twenty-four feet (24'), and the entire twenty-four feet (24') shall be finished on a permanent foundation.
4. Only one dwelling unit per lot, regardless of lot size shall be permitted. Residences may be built on lots platted previous to the adoption of this Code, provided all setbacks can be met, and provided adequate on-site sanitary facilities are approved by the State Health Department.

### **(3) B1, Neighborhood Commercial**

#### **(a) Description and Intent**

This district is intended for use in areas of transition between residential uses and general commercial areas, and in areas that are designed to accommodate convenient neighborhood commercial establishments that can be operated in harmony with adjacent residential uses.

#### **(b) Permitted Uses**

Antique Shops	Barber & Beauty Shops
Art/Photography Studios	
Business Offices	Churches
Clinics	Accessory Buildings & Uses
Convalescent Homes	Day Care Centers
Professional Offices	Public & Semi-Public Uses

#### **(c) Conditional Uses**

Convenience Stores	Government Offices
Nurseries	
Parks & Recreational Uses	
Single-Family Residences	Communication Towers

\*Similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

#### **(d) Parking Requirements**

Off-street parking spaces shall be required as provided in Section 10.

#### **(e) Height, Building, & Area Regulations**

1. No building shall exceed two and one-half stories, nor shall it exceed thirty-five feet (35') in height.
2. Building setbacks shall be a minimum of ten feet (10') for all main buildings in the side yard and rear yard. Twenty feet (20') street side
3. Minimum front setback is twenty-five feet (25').
4. Building coverage shall not exceed forty percent (40%) of the lot area.
5. Where a "B1" district abuts a residential district or use, a wood or masonry construction having a height of not less than six feet (6') shall be erected and maintained between such properties.

6. Any light used to illuminate “B1” uses and associated parking areas, shall be so designed and arranged to reflect the light downward, and away from adjacent residential properties.

(f) Permitted Signs (on premise only)

1. Nameplates not over four (4) square feet in area.
2. Bulletins not over twelve (12) square feet in area.
3. Official signs not over twelve (12) square feet in area.
4. Commercial signs not over two hundred (200) square feet in area.

**(5) B2 – General Commercial**

(a) Description and Intent

This district is intended to be applied to general commercial areas that provide for heavy retail trade, service, and business needs of the general public of the Town. This district is generally located in the central business district, and along the immediately adjacent major streets. It may be assigned at commercial nodes in the future, but is not intended to be used in a strip manner.

(b) Permitted Uses

- |                                  |                        |
|----------------------------------|------------------------|
| Antique Shops/Flea Markets       | Appliance Stores       |
| Art/Photography Studios          | Auto Parts Store (new) |
| Auto Repairs                     | Bakery Shops           |
| Banks/A.T.M/                     | Barber & Beauty Shops  |
| Building & Farm Supply Stores    | Business Offices       |
| Cabinet Shops                    | Car Washes             |
| Clinics                          | Convenience Stores     |
| Department Stores                | Drug Stores            |
| Dry Cleaners                     | Event Center           |
| Family Entertainment             | Florist Shops          |
| Furniture Stores                 | Government Offices     |
| Grocery Stores                   | Laundromats            |
| Landscaping; Lawn/Tree Service   | Motels                 |
| Nurseries                        | Office Supply Stores   |
| Professional Offices             | Restaurants/Fast Foods |
| Seasonal Retail Sales            | Variety Store          |
| Warehousing & Storage Facilities |                        |

(c) Conditional Uses

- |                         |                      |
|-------------------------|----------------------|
| Pawn Shops              | Spirit Sales         |
| Swap Meets              | Mature Entertainment |
| Used Auto/Boat/RV sales |                      |

\*Single-Family Residences; Communication Towers; and similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(d) Prohibited Uses

Salvage Yards

(e) Parking Requirements

Off-street parking shall be provided pursuant to provisions of Section 10.

(f) Height, Building, & Area Regulations

1. No building shall exceed forty feet (40') in height.
2. Building setbacks shall be a minimum of twenty-five feet (25') in the front; ten feet (10') in the rear; and ten feet (10') on the sides, provided street side setbacks shall be a minimum of twenty feet (20').
3. Accessory buildings shall be
  - a. in the rear yard
  - b. in the side yard, behind the front setback, as long as not in front of primary structure
4. Screening, with an opaque fence of wood or masonry construction of at least six feet (6') in height, shall be erected and maintained when a "B2" use abuts a residential district or use.
5. Any light used to illuminate "B2" uses and associated parking areas, shall be so designed and arranged to reflect the light downward, and away from adjacent residential properties.

(g) Permitted Signs (on premise only)

1. Nameplates not over four (4) square feet in area.
2. Bulletins not over twelve (12) square feet in area.
3. Official signs not over twelve (12) square feet in area.
4. Commercial signs not over two hundred (200) square feet in area.

**(6) I – Industrial**

(a) Description and Intent

This district is intended for clean, quiet industries on amply landscaped sites that can be operated compatibly with commercial and residential uses.

(b) Required Conditions

No use shall be permitted, and no process, equipment, or material shall be employed which is found by governmental authorities to be objectionable to persons or injurious to property located in the vicinity by reason of odor, insect nuisance, fumes, dust, smoke, dirt, refuse, water-carried waste, noise, vibration, unsightliness, or to involve any hazard of fire or explosion. Proposed uses which the Zoning Official determines may not meet required conditions shall be referred to the Planning Commission for consideration as conditional uses.

(c) Permitted Uses (subject to required conditions consistency finding)

Wholesale Distribution Centers	Warehousing & Rental Storage
Fabrication Plants	Processing Facility
Grain Storage & Elevators	Roofing & Sheet Metal Companies
Contractor Maintenance & Storage Yards	Trucking & Freight Terminals
Manufacturing Building Materials	Assembly Plants
Event Center	Packaging Plants

(d) Conditional Uses

Swap Meet	Food Processing
Mining	

Similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(e) Parking Requirements

Off-street parking shall be provided pursuant to provisions of Section 10.

(f) Height, Building & Area Regulations

1. Only height limitations associated with airports shall apply.
2. Building setbacks shall be a minimum of 50 feet in the front and twenty feet (20') in both the rear and sides.
3. Each structure or use shall provide on-lot loading and unloading facilities that will allow such activities to be carried on without blocking or in any way interfering with traffic.
4. Building coverage shall not exceed fifty percent (50%) of the lot area, which shall be a minimum of 1 (one) acre.

## SECTION 8. CONDITIONAL USES

### a. Nature and Description

Certain uses may or may not be appropriately located within various districts due to their unusual or unique characteristics of operation and external effects. Given their unique character, analysis and judgment of the consequences of each development and use must be given so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. Such uses are listed under the various districts herein as “conditional uses,” and may be located in the district or districts so designated only in accordance with the procedure described herein.

### b. Development Standards and Review Guidelines

All development shall be designed in such a way as to minimize any potential negative impact on the surrounding area. Special attention shall be given to buffering commercial developments from adjacent single-family areas. Design of the internal traffic circulation system, ingress and egress, off-street parking, loading, and pedestrian ways shall be sensitive to such conditions as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, and the proper relationship of different land uses. Landscaped areas shall be provided to protect water quality, and reduce erosion, heat and glare. Such areas shall be maintained in an attractive condition. Existing trees on a development site shall be retained where possible. Screening, open space, or other buffer may be required to give adequate separation between uses which are not compatible and shall also be provided for the beautification and enhancement of the property.

In carrying out the purpose of this section, the following development standards and design specifics shall be subject to review and approval. The appropriateness of these standards shall be determined for each specific conditional use location.

- (1) The proposed use is within the provision of “conditional uses” as set out in this Code.
- (2) The proposed use conforms to all applicable provisions herein set out for the district in which it is to be located.
- (3) The proposed use is so designated, located and proposed to be operated that the public health, safety and welfare will be protected.
- (4) The proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.
- (5) The size and shape of the site, including the size, shape and arrangement of proposed structures, as well as signage related thereto, is in keeping with the intent of this Code.
- (6) The proposed ingress and egress, internal circulation system, location and amount of off-street parking, loading and pedestrian ways are sufficiently adequate, and not inconsistent with requirements of this Code.
- (7) The proposed landscaping and screening of the proposed use are in accordance with provisions of this Code.

- (8) Safeguards proposed to limit noxious or offensive emissions, including lighting, noise, glare, dust and odor are addressed.

c. Procedure for Authorizing

The following procedure is established to integrate properly the conditional use with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

- (1) An application shall be filed with the Zoning Official, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the Town Council to defray processing costs. The application shall be accompanied by graphic representation showing the location and proposed use of the site, along with such other descriptive material necessary for decision-making. Such may include, but is not limited to: preliminary site plans showing proposed uses and structures; proposed ingress and egress to the site, including adjacent streets; proposed off-street parking and landscaping; lighting and signage; a preliminary plan for provision of sanitation and drainage facilities; and proximity of adjacent uses and buildings.

Each application shall be verified by at least one of the owners of the property proposed to be changed, attesting to the truth and correctness of all facts and information presented with the application.

The filing deadline for inclusion on the Planning Commission agenda shall be the 10<sup>th</sup> day of the month preceding the Planning Commission meeting. Should the 10<sup>th</sup> fall on a weekend or holiday, the next following workday shall be the filing deadline.

- (2) Upon determining that an application is proper and complete, the Zoning Official shall insure that the matter is set for public hearing before the Planning Commission. The Zoning Official shall be responsible for insuring that, pursuant to law, at least fifteen (15) days notice of the time, place, and subject of such hearing is published in a newspaper of general circulation in the Town.

The applicant shall present an affidavit to the Zoning Official, at least ten (10) days prior to the required public hearing, stating that all property owners within two hundred feet (200') of the exterior boundaries of the subject property have been notified of the proposed use, and of the time, date, and place of the public hearing. Such notifications may be in person or by mail.

- (3) The Planning Commission shall review conditional use permit applications at a regularly scheduled meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the Commission may approve the application as presented, approve it with conditions, table it with cause until its next regular meeting, or deny the application. Approval shall require an affirmative vote of a majority of the authorized membership of the Commission.

In approving such conditional uses, the Planning Commission shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be insured to the maximum extent practicable.

In no case shall the Planning Commission or Town Council authorize a reduction from minimum requirements of this Code relating to height, area, setbacks, parking, or landscaping. In addition, no conditional use authorized by the Planning Commission or Town Council shall be subsequently considered in connection with a variance request to the Board of Zoning Adjustment.

If the Planning Commission disapproves or denies a conditional use application, the reasons for such action shall be given to the applicant within fifteen (15) days from the date of the decision. The applicant may appeal such Commission action, or any condition(s) placed upon application approval, to the Town Council within thirty (30) days of the Commission's action. The appeal shall be in writing to the Recorder/Treasurer, and shall specifically state why the Planning Commission's findings and decision was arbitrary, capricious, and inappropriate. If denied, no application for such use or similar use shall be permitted involving any part of the same property for a period of six (6) months.

- (4) No authorization or permit shall be issued for any building or structure not in conformance with the site plan and all other conditions imposed in granting a conditional use permit. The construction, location, use, or operation of all land and structures with the site shall be in accordance with all conditions and limitations set forth in the approval. No structure, use or other element of any approved site plan shall be eliminated, significantly altered, or provided in another manner unless an amendment to the conditional use is approved. The procedure for amending a conditional use permit shall be the same as required for the original approval.

Substantial work or construction under a conditional use permit must be commenced within one (1) year, or the permit shall terminate. Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Prior to the expiration of the time limit specified in the particular permit, the property owner may request that the permit be reviewed by the Planning Commission, which may extend it for an additional period of one (1) year.

Once any portion of the conditional use permit authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. All conditions relating to or limiting the use, status, or operation of the development, after issuance of an occupancy permit, shall be complied with by the applicant or his successors or assigns. Failure to do so shall constitute a violation of this Code, and shall be cause for revocation of the conditional use authorization.

Provided sufficient site information is submitted with the approved development plan, the Planning Commission may waive otherwise mandated site plan review requirements.

## SECTION 9. ACCESSORY USES

### a. General Description

An accessory building is a subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one that is customarily incidental, appropriate and subordinate to the principle use of land and buildings, and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

### b. Location Requirements and Standards

An accessory building shall not be located within a required street (front or street side) setback; shall be subject to the side setback standards of the underlying zoning district; shall be set back within the minimum setback standards from a property line; shall not be located within any public easement or over any known utilities or septic lines; and shall not occupy more than twenty percent (20%) of the lot area or more of the lot than is covered by the principal use, whichever results in less lot coverage. Accessory buildings shall not exceed the floor area of the principal use in R1 or R2 zones. Unless otherwise provided herein, and provided site visibility is not obstructed, signs, fences and walls shall be allowed within setbacks.

An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building, and shall comply in all respects with the requirements applicable to the principal building. Provided detached, open-sided carports may be located in the side yard, no closer to the front lot line than the principal building, and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located at least ten (10) feet from any other structure.

With regard to height limitations, accessory structures in residential districts shall not exceed twelve feet (12') in height, measured from the eave; and in commercial districts, such structures shall not exceed twenty-five feet (25') in height or the height of the principal structure on the lot. Provided however, that accessory structures (such as barns) associated with normal farming or ranching operations shall be exempt from this limitation.

### c. Residential Accessory Uses

Residential accessory uses shall include the following accessory uses, activities, facilities, and structures: accessory dwelling units (subject to limitations outlined below); fences and walls; garages, carports and off-street parking and loading areas; gardens; gates and guard houses; home occupations (subject to limitations and requirements outlined below); playhouses, patios, cabanas, porches, gazebos and household storage buildings; radio and television receiving

antennas; recreational and play facilities for residents; storm and fallout shelters; and other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

A nameplate sign, that is, a sign bearing the name and/or address, occupation, and communication number of a person or use occupying the premises, shall be permitted as a residential accessory use. Such sign shall be unanimated and non-illuminated, not over two (2) square feet in area, and placed flat against a wall or door of the principal building. In addition, a real estate sign, that is, a temporary sign advertising the premises for sale or lease, is also permitted as an accessory use. Such sign shall be unanimated and non-illuminated, shall not exceed four (4) square feet in area, and shall not be placed on public right-of-way.

- (1) Accessory dwelling units shall be allowed by right in R1 districts with lot sizes exceeding two (2) acres provided that the dwelling unit is used to house immediate family members or employees who work on-site. Such units may also be allowed, subject to conditional use approval, in R2 districts. Accessory dwelling units shall not be used for general rental purposes.
- (2) A home occupation shall be allowed as an accessory use in residential districts subject to compliance with the following requirements, which are intended to balance protection of residential character with enabling residents to work from home:
  - (a) The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner; provided a nameplate sign, as described above shall be permitted.
  - (b) The work done in the home office or business creates no objectionable odor, noticeable vibration, or offensive noise that increases a level of ambient sound at the property lines.
  - (c) The home office or business does not involve the external display of goods or services, and does not cause unsightly conditions or waste visible from off the property.
  - (d) The home office or business does not cause interference with radio, telephone, or television reception in the vicinity.
  - (e) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
  - (f) The home office or business sells no articles on the premises that are not produced on the premises.
  - (g) A home occupation shall be carried on wholly within the principal residential structure. No home occupations shall be allowed in accessory buildings or garages.
  - (h) The home office or business occupies no more than twenty-five percent (25%) of the total floor area of the residence.
  - (i) There shall be no external alteration of the dwelling, nor storage of supplies or equipment outside.

- (j) Not more than one (1) truck of more than two and one-half (2½) ton capacity; and no semi-trailers, incidental to the home occupation, shall be kept on the premises.
  - (k) Customers may visit the site only during the hours of 8 AM to 8 PM, and no more than six (6) customers or clients may visit the site in any single day.
  - (l) Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.
- (3) Prohibited home occupations include, but are not limited to the following:
- (a) Barber and beauty shops.
  - (b) Dispatch centers, where employees come to the site to be dispatched to other locations.
  - (c) Commercial stables, kennels, and animal boarding and care facilities.
  - (d) Assembly or repair of large appliances.
  - (e) Repair or assembly of vehicles or equipment with internal combustion or electric engines, or any other work related to motor vehicles and their parts.
- (4) Garage sales, also commonly called rummage or yard sales, are permitted as accessory uses provided they meet the following requirements:
- (a) Each such sale shall be registered in writing or by telephone with the Recorder-Treasurer.
  - (b) Each property address and/or person shall be limited to no more than four (4) such sales per year.
  - (c) Sales shall not last longer than two (2) consecutive days.
  - (d) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.
  - (e) No goods purchased for resale may be offered for sale.
  - (f) No consignment goods may be offered for sale.
  - (g) Directional and advertising signs, not larger than four (4) square feet, are allowed; provided they are free-standing—that is, they shall not be placed on traffic or official signs, utility poles, or living trees. All such signs shall be removed promptly after completion of the sale.

#### SECTION 10. GENERAL STANDARDS

a. **Manufactured Dwelling Units, Residential Design.** All manufactured dwelling units shall comply with the following standards; be no more than six (6) years old; and shall have passed a life/safety inspection:

(1) Size

- (a) The minimum width of a residential design, manufactured dwelling unit shall be twenty-four feet (24'), with width measured perpendicular to the longest axis at the narrowest part.
- (b) The length of a residential design, manufactured dwelling unit shall not exceed four (4) times its width, with length measured along the longest axis.
- (c) A residential design, manufactured dwelling unit shall have a minimum area of one thousand two hundred (1,200) square feet (enclosed and heated living area).

(2) Roof

- (a) Pitch. The roof must be predominantly double-pitched and have a minimum vertical rise of four inches (4") for every twelve inches (12") of horizontal run.
- (b) Materials. The roof must be covered with material that is customarily used on site-built housing units.
- (c) Eaves. The roof shall have a minimum eave projection and roof overhang of ten inches (10"), which may include a gutter.

(3) Siding

- (a) Materials. Exterior siding must be of a material customarily used on site-built housing units. Customary materials include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials. Customary materials do not include smooth, ribbed or corrugated metal or plastic panels or material that has a high gloss finish.
- (b) Design and Placement. Siding material shall extend below the top of the foundation or curtain wall, or the joint between the siding and enclosure wall shall be flashed in accordance with building/structure regulations contained in the Arkansas Fire Prevention Code.

(4) Installation of Unit.

- (a) Guidelines. The unit shall be installed in accordance with the recommended installation procedures of the manufacturer, and the standards established by the International Conference of Building Officials (ICBO) and published in the most recent edition of "Guidelines for Manufactured Housing Installations."
- (b) Foundation. A continuous, permanent concrete or masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, which may include walk-out basements and garages, shall be installed under the perimeter of the unit, also in accordance with the above referenced ICBO guidelines; as well as all requirements of the Arkansas Fire Prevention Code.

- (5) Entrance Landing Area. At the main entrance door to the unit, there shall be a landing that is a minimum of five (5) square feet constructed in accordance with building code requirements contained in the Arkansas Fire Prevention Code.
- (6) Transport Equipment. All running gear, tongues, axles, and wheels must be removed at the time of installation of the unit on the lot.
- (7) Finished Floor Elevation. The finished floor of the unit shall meet the manufacturer's specifications unless the unit is located in a floodplain, in which case floodplain regulations shall rule.
- (9) Additions. Attached additions and detached garages shall comply with the building code provisions of the Arkansas Fire Prevention Code, and floodplain regulations, if applicable. All standards of this section shall apply to such additions and garages.
- (10) HUD Code Certification. Prior to issuance of a permit to locate a manufactured home in Avoca, evidence shall be presented to the Zoning Official that the dwelling unit was constructed in accordance with the federal (HUD) standards and meets the definition set forth in the federal standards and under A.C.A. 20-25-102.

b. Off-Street Parking and Off-Street Loading Facilities

(1) Off-Street Parking Facilities Required.

- (a) A parking space shall be an area for the parking of a motor vehicle, plus those additional areas and facilities required to provide for the safe ingress and egress from said space. The area set aside to meet these provisions must be usable and accessible for the type of off-street parking need which must be satisfied.
- (b) In any residential district, all motor vehicles incapable of movement under their own power, other than in cases of emergency, shall be stored in an entirely enclosed space, garage or carport.
- (c) At the time of initial occupancy of a site or of construction of a building, there shall be provided off-street parking facilities for automobiles in accordance with the requirements of these regulations.
- (d) Parking Space Schedule.
  - 1. Single-family residential – 2 spaces
  - 2. Retail Sales & Convenience Stores –Minimum of 3 spaces/1,000 square feet of retail floor area
  - 3. Business/Professional Offices & Banks – Minimum of 3 spaces/1,000 square feet of gross floor area
  - 4. Restaurants – Minimum of 5 spaces/1,000 square feet of gross floor area
  - 5. Day Care Facilities – 1 space/staff and/or attendant, plus 2 additional spaces; An off-street drop-off and pick-up area shall be provided as a condition of approval
  - 6. Churches – 1 space/4 seats in the sanctuary

7. Industrial Uses – Pursuant to site development plan approval.

(2) Location of Off-Street Parking Facilities. In all districts, off-street parking facilities prescribed in this section shall be located as hereinafter specified.

- (a) For residential dwellings and commercial and industrial establishments, parking facilities shall be located on the same site as the buildings they are to serve.
- (b) For any church, there shall be allowed the use of joint parking facilities in connection with any building or use not normally open, used, or operated during the principal operating hours of a church; provided a properly drawn legal instrument is executed by the parties concerned for the joint use of such off-street parking facilities, which instrument, duly approved as to form by an Attorney-at-Law, shall be filed with the application for a zoning permit.
- (c) No parking shall be allowed in any front yard of a residential use, except when parked on the driveway, provided such does not block a sidewalk or create an obstruction to visibility.
- (d) When the required parking spaces for residential dwellings are not to be provided in a covered garage or carport, such spaces shall be located or constructed so that it may be later covered by a garage or carport structure in accordance with the provisions of these regulations.
- (e) No parking at commercial establishments shall be located within the first ten feet (10') of the required front or side setback nearest the adjoining street(s).

(3) Standards for Off-Street Parking Facilities

- (a) Each parking space shall be not less than twenty feet (20') in length and nine feet (9') in width, exclusive of aisles and access drives. Including the ingress and egress areas and aisle space, the parking area shall provide for three hundred (300) square feet per vehicle.
- (b) All parking areas shall have adequate ingress or egress to a street or alley. Sufficient room for turning and maneuvering vehicles shall be provided on the site.
- (c) Entrances and exits to parking lots and other parking facilities shall not be closer than twenty-five feet (25') to street intersections, and shall be subject to site plan approval.
- (d) If the parking area is illuminated, lighting shall be arranged so as to not cause annoying glare to adjoining residential uses.
- (e) No commercial repair work, servicing of vehicles, or parking of new or used motor vehicles for the purpose of storage, rent, or sale shall be conducted on a required parking area.
- (f) All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, shall be paved with asphalt, concrete or brick; large scale commercial, industrial and retail applications shall be allowed to use SB2 in non-customer areas; driveways serving single-family dwellings shall only be required to pave an apron 20 (twenty) feet in length, minimum width of nine (9) feet, flaring to a minimum of fourteen (14) feet at street. The area of the

driveway from the edge of the street to the property line shall be paved. The minimum standard for the remaining portion of driveway and required off street parking shall be nine (9) feet wide and shall be covered in SB2.

- (g) All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all storm water, and to not increase the storm water runoff onto the surface of adjoining properties or streets.
- (h) Off-street parking areas containing five (5) or more spaces shall have such spaces delineated by pavement striping. Pursuant to American's With Disability Act (ADA) standards, a portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by persons with physical disabilities. Responsibility for compliance with ADA, in all respects, shall rest with the applicant.
- (i) Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to "back" onto a public right-of-way, except single-family residential development on local and collector streets.
- (j) Off-street loading spaces shall be at least fourteen feet (14') by forty-five feet (45') in size, with a minimum eighteen (18') foot height clearance.
- (k) Drive aisles within off-street parking lots shall be two-way, with a minimum width of twenty-four feet (24').
- (l) All required parking and loading spaces, driving aisles, and access ways shall be constructed prior to the issuance of a certificate of occupancy, provided that a temporary certificate of occupancy may be issued if it is determined, based on information provided by the applicant, that inclement weather or other factors beyond the control of the applicant have prevented compliance with this "timing" requirement. Said temporary certificate shall expire at the end of one hundred twenty (120) days.
- (m) Off-street parking, as an accessory to residential uses, includes the parking of valid licensed passenger automobiles, pickup trucks, vans, recreational equipment and recreational vehicles solely for use by the occupants of the dwelling or by guests of the occupants. Under no circumstances shall off-street parking, as an accessory use, be used for the parking of commercial vehicles which weigh over two and one-half (2½) tons.
- (n) One boat, one trailer and/or one recreational vehicle may be parked outdoors on a lot in a residential district provided that:
  - 1. The boat, trailer or recreational vehicle is owned and used by a resident of the premises;
  - 2. The boat, trailer or recreational vehicle is not parked in the area between the front of the residence and the street or other area between the structure and the street, except for the purpose of loading or unloading during a period of less than eight (8) hours.
  - 3. If the boat, trailer or recreational vehicle is located in the side or rear yard, it shall be effectively screened from view of abutting lands by a wall, fence or dense hedge planting at least six feet (6') in height.

4. The boat, trailer or recreational vehicle is not used for living, sleeping, or housekeeping purposes; and
  5. The boat, trailer or recreational vehicle is currently registered and licensed, as required by state law.
- (o) In addition to meeting the off-street parking requirements of this section, establishments with drive-through facilities shall comply with the following minimum vehicle stack space standards:
1. Stack Space Schedule:
    - a. Fast-food restaurants, 110', measured from the order station.
    - b. Banks, 70', measured from the teller drop.
    - c. Automatic car wash, 50', measured from the entrance.
    - d. Other uses, 30', measured from the pick-up window.
  2. Design and Layout. Vehicle stack spaces shall be subject to the following design and layout standards:
    - a. Stack spaces shall be designed so as not to impede pedestrian access to the building; on and off site traffic movements; or movements into or out of parking spaces.
    - b. Stack space lanes shall be a minimum of eight feet (8') wide, and shall be separated from other internal driveways with painted lines or curbing.
- c. Driveways and Access
- (1) Access to property shall be allowed only by way of driveways, and no other portion of the lot frontage shall be used for ingress or egress. Continuous curb cuts are prohibited.
  - (2) Driveway design shall be such that minimization of interference with through street traffic is achieved, and shall be subject to site plan approval. The types of vehicles that a driveway is intended to serve shall be a prime factor in determining the acceptable radii of driveways.
  - (3) At least one driveway shall be permitted for each lot.
  - (4) Driveways shall be located a minimum of twenty feet (20') from the side property lines. A separation of forty feet (40') is required between the driveways on one lot and the driveways on the adjacent lots. Driveways on the same lot shall be no closer than fifty feet (50') to each other.
  - (5) Driveways on corner lots shall be located as far away from the intersection as possible. In no case shall a driveway be installed closer than five feet (5') to the beginning of the curb radius.
- d. Ingress/Egress Driveway Width. For commercial and industrial districts, the width of the driveway throat shall not exceed forty feet (40') in width. Driveway lanes shall be a minimum of thirteen (13) feet in width and shall not have more than three (3) lanes in one entrance/exit

- e. **Dumpster Screening.** Dumpsters located in any district shall be completely screened from view on all sides visible to the public by a fence or wall with a minimum height of six feet (6'), or one foot (1') taller than the dumpster, whichever is greater. The fence or wall shall provide complete visual screening of the dumpster, and be compatible in material and color with the principal structure on the lot.
- f. **Corner Visibility.** On corner lots at intersecting two-way street, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet (2') and eight feet (8') above curb grade with the triangular area formed by an imaginary line that follows street side property lines, and a line connecting them, twenty-five feet (25') from their point of intersection. This sight triangle standard may be increased by the Town in those instances deemed necessary for promoting traffic safety, and may be lessened at intersections involving one-way streets.
- g. **Fences.**
  - (1) Fences shall not exceed eight feet (8') in height unless approved by the Planning Commission; provided fencing around tennis courts and other recreational amenities, shall be exempt from this height limit.
  - (2) All fences shall comply with the corner visibility standards of (f) above.
  - (3) All fences in all residential zoning districts shall be constructed so that the horizontal and vertical support posts are inside the fence area or hidden from view of those outside the fenced area. This requirement shall not apply to fences that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel, shall have a color finish coat applied to them and be preserved against rust and corrosion.
  - (4) All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surfaces finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.
  - (5) Barbed wire and electrified fences shall be prohibited on all lots of less than one (1) acre in area.
  - (6) All fences have to be a minimum of eight (8) feet from the edge of pavement.
  - (7) Fences cannot be constructed with non-traditional material such as livestock panels, pallets, sheet metal, hog and chicken wire, barn tin, galvanized and corrugated, etc. material.
  - (8) Chain link fences are acceptable.
  - (9) All fences shall be built with traditional, customary fencing material.

## SECTION 11. AMENDMENTS

a. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. Such changes may be initiated by the Town Council or by the Planning Commission. In addition, individual property owners may petition for district boundary changes on the Official Zoning Map for property of which they are the owner of record.

b. All proposed changes, additions, and amendments shall be submitted in writing to the Planning Commission for public hearing, review, and recommendation to the Town Council. Said submittal shall include a statement and drawings, if appropriate, explaining the proposed changes.

c. No action to make changes to this Code or to the Map shall be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published by the applicant for a rezoning in a newspaper of general circulation in the Town.

d. Individual property owners applying for changes to the Official Zoning Map shall present an affidavit, at least ten (10) days prior to the required public hearing, that all property owners within two hundred (200) feet have been notified of the proposed change and of the time, date, and place of the public hearing.

e. Public hearings relative thereto shall be held at Planning Commission meetings. Following public hearing, proposed amendments and changes may be approved as presented or in modified form by a majority vote of the Commission's membership, and recommended to the Town Council for adoption.

f. If the Planning Commission disapproves, recommends against, or tables a proposed amendment or change, the reasons for such shall be given in writing to the petitioner within fifteen (15) days from the date of the decision. The petitioner may appeal such Commission action to the Town Council, provided that the petitioner states specifically, in writing to the Town Recorder-Treasurer, why the Planning Commission's findings and decisions were arbitrary, capricious, and inappropriate. Such appeal shall be filed within thirty (30) days of the Planning Commission's action.

g. No application for a change of the Zoning Map shall be resubmitted within twelve (12) months from the date of the action of the Planning Commission, or Town Council, unless the Planning Commission finds that a substantial change in conditions has occurred.