

ORDINANCE NO. 2021-233

AN ORDINANCE AMENDING BENTONVILLE MUNICIPAL CODE
APPENDIX A ZONING CODE AND APPENDIX B LAND
DEVELOPMENT CODE.

WHEREAS, the City of Bentonville periodically reviews the Zoning Code and Land Development code to identify needs for clarification or updates to meet current conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS:

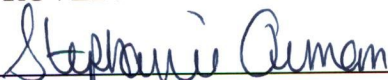
Section 1. That the Bentonville Municipal Code, *Appendix A Zoning Code* should be and the same is hereby amended with the following *Attachment A: Zoning Code Amendments*, an electronic copy and paper copy of which is on file with the City Clerk, is hereby referred to, adopted and made a part hereof as though it were copied herein fully.

Section 2. That the Bentonville Municipal Code, *Appendix B Land Development Code* should be and the same is hereby amended with the following *Attachment B: Land Development Code Amendments*, an electronic copy and paper copy of which is on file with the City Clerk, is hereby referred to, adopted and made a part hereof as though it were copied herein fully.

Section 2. That this ordinance shall be in full force and effect 30 days from the date of its passage and approval.

PASSED and APPROVED this 9 day of NOVEMBER, 2021.

APPROVED:



Mayor Stephanie Orman

ATTEST:



Kirby Romines, City Clerk



Attachment A
Zoning Code Amendments

Article 201 Definitions

Sec. 201.02 Definition of Terms and Uses.

Act (Wireless Communication Facilities): The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include any re-amendments thereto.

Alley: A ~~public~~ passage or way ~~affording a secondary means of~~ to the back or side of abutting property used for vehicular access and utility installations and not intended for general traffic circulation.

~~*Alternative Tower Structure:* Manmade trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers and are built for the express purpose of serving as a tower or for locating antennas.~~

Auto and Vehicle Sales and Rental: A retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers, motorcycles, and scooters with internal combustion engines. (Bicycle sales are included under "General Retail"). Vehicles for sale may be displayed outdoors or indoors, as authorized by the required Use Permit. May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include: the sale of auto parts/accessories separate from a vehicle dealership (see "Auto Parts Sales"); ~~mobile~~manufactured home, recreational vehicle, or watercraft sales (see "~~Mobile~~Manufactured Home, RV and Boat Sales"); tire recapping establishments (see "Vehicle Services"); businesses dealing exclusively in used parts, (see "Recycling - Scrap and Dismantling Yards"); or "Service Stations," which are separately defined.

~~*Basement:* A story partly or wholly underground~~As defined by the International Building Code as adopted by the Bentonville City council. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Buffer: A strip of land established to protect one type of land use from another with which it is incompatible. ~~A buffer strip is landscaped and kept in open space.~~ The term buffer zone may be used more broadly to describe any zone that separates two unlike zones such as a multi-family zone between a single-family zone and a commercial zone.

~~*Building:* Any structure intended for shelter, housing or enclosure of persons, animals, goods or equipment that includes walls and a roof. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure.~~Any structure used or intended for supporting or sheltering any use or occupancy.

Child Care, ~~Commercial~~Licensed Center: ~~Any~~ child care facility ~~is considered commercial in nature when the facility that~~ cares for ~~eight (8) six (6)~~ or more children under the age of 16 years, ~~from more than one family and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation, provided,~~ however, this definition shall not include public or private schools organized, operated or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, or to children related by blood or marriage within the third degree to the custodial persons. These uses include but are not limited to: commercial day care center, nursery school, pre-school, kindergarten.

Child Care, ~~Residential~~Registered Family Home (45): A ~~single family~~ dwelling unit that regularly provides care, protection, and supervision of no more than ~~four (4) five (5)~~ children, including ~~children under the age of ten that permanently reside in the home~~the caregiver's own preschool age children, in the ~~permanent residence of the operator's home~~caregiver's own residence, for periods of less than twenty-four (24) hours per day, while parents or guardians are away.

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Child Care, ~~Residential-Licensed Family Home (56-1016)~~: A ~~single family~~ dwelling unit that regularly provides care, protection, and supervision of between ~~five (5) six (6) and ten (10)~~sixteen (16) children, including ~~children under the age of ten that permanently reside in the home~~the caregiver's own preschool age children, in the ~~permanent residence of the operator's home~~caregiver's own residence, for periods of less than twenty-four (24) hours per day, while parents or guardians are away.

~~Convenience Store~~: A ~~retail commercial establishment, not exceeding 2,500 square feet in gross floor area, supplying a limited range of food items, magazines, toiletries, and tobacco products to meet the day-to-day needs of residents in the immediate neighborhood.~~

~~Dwelling, Manufactured~~: A ~~detached single family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development~~dwelling unit constructed in a factory in accordance with and meeting the definitions set forth in the Federal Manufactured Home Construction and Safety Standards, 24 C.F.R. pt. 3280, promulgated by the United States Department of Housing and Urban Development under the authority of 42 U.S.C. 5401 et seq., as it existed on January 1, 1976 and as defined in Arkansas State Statute Sec. 20-25-102.

~~Dwelling, Modular~~: A ~~dwelling unit~~factory built structure produced ~~constructed~~ in accordance with the standards set forth in the City of Bentonville Building Code and ~~composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation~~designed to be used as a dwelling unit with a foundation when connected to the required utilities.

~~Easement~~: A ~~right-of-way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usages given by the owner or land to another party, the City or the public~~grant by the property owner of the use, for a specific purpose or purposes, of land by the public, a corporation, or certain persons.

~~Garage, Private~~: An accessory building or part of a main building used primarily for storage ~~purposes only for not more than four (4) automobiles~~of motor vehicles where no repair service facilities are maintain and where no motor vehicles are kept for rental or sale, or for a number of automobiles which does not exceed one and a half (1/2) times the number of families occupying the dwelling unit to which such garage is accessory whichever number is the greater. This definition shall include carports.

~~Guyed Towers (Wireless Communication Facilities)~~: A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

~~Home Occupation~~: Home-based work. A nonresidential use carried on within a dwelling, which is clearly subordinate to the residential use and which does not outwardly change the residential character of the use, lot or structure. Any occupation performed or business conducted by a resident within a residence that is clearly incidental to and secondary to the principal use of the structure for residential dwelling purposes.

~~Lattice Tower (Wireless Communication Facilities)~~: A guyed or self-supporting three- or four-sided, open, steel frame structure used to support telecommunications equipment.

~~Lot, Corner~~: A lot which has an interior angle of less than 180 degrees at the intersection of two streets lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of

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~~intersection of the side lot lines intersect at an interior angle of less than 135 degrees. A lot located at the intersection of and abutting two or more streets.~~

Medical Services, Hospital: Hospitals and similar facilities engaged primarily in providing in-patient diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, in-patient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, abortion clinics as authorized in A.C.A § 12-18-103 and § 20-9-302. accessory retail uses and emergency heliports, and on-site ambulance dispatch facilities.

Mini-Warehouse Storage: ~~One (1) or more permanent structures, meeting applicable City building requirements, A storage facility which wwith separate storage units or cubicles that are intended to be leased by members of the public. The term includes self-storage facility.~~

Mobile Home: ~~A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than three hundred twenty (320) square feet, and designed to be used as a year round residential dwelling unit~~A dwelling unit constructed in a factory before the enactment of the Federal Manufactured Home Construction and Safety Standards, 24 C.F.R. pt. 3280, promulgated by the United States Department of Housing and Urban Development under the authority of 42 U.S.C. Section 5401 et seq., as it existed on January 1, 1976. -

Monopole Tower (Wireless Communication Facilities): A communication tower constructed without the use of guy wires and ground anchors and consisting of only a single pole. Also called a self-support tower.

Office, Large Scale: ~~An office facility with a gross floor area of more than 4,000 square feet, characterized by high employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include "medical services, doctor office" which is separately defined.~~

Office, Small Scale: ~~An office facility with a gross floor area of 4,000 square feet or less, characterized by low employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include "medical services, doctor office" which is separately defined.~~

Open Space: ~~Any unoccupied space on the lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatever.~~Open space shall be interpreted to mean:

1. All areas of natural plant communities or areas replanted with vegetation after construction, such as revegetated natural areas; and
2. tree, shrub, hedge, or ground cover planting areas; and
3. lawns and other areas allowed to be counted as open space per the Zoning Code and Land Development Code.

Packaged Liquor Store: A retail establishment with the primary purpose of selling beer, light wine and spirits for off-site consumption. This definition does not include ~~a convenience store when the sale of beer, light wine and/or spirits for off-site consumption is not the primary retail product.~~"packaged sale of beer and/or light wine" or "packaged sale of beer, light wine and/or spirits" which are defined separately.

Packaged sale of beer and/or light wine: The retail sale of packaged beer and/or light wine for off-site consumption when such merchandise is not the primary retail product. This definition does not include "packaged liquor store" or "packaged sale of beer, light wine and/or spirits" which are defined separately.

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Packaged sale of beer, light wine and/or spirits: The retail sale of packaged beer, light wine, and/or spirits for off-site consumptions when such merchandise is not the primary retail product. This definition does not include "packaged liquor store" or "packaged sale of beer and/or light wine" which are defined separately.

Reclassification zoning: An amendment to or a change in the Zoning ~~Ordinance~~Code reflecting a change or revision or modification of the Zoning District Boundary Map.

~~*Retail, Large Seale:* A retail store with a gross floor area of more than 4,000 square feet for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, auto parts and accessories, and similar consumer goods. The term "food store" includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this article that are specifically listed.~~

Retail, Small Seale: A retail store with a gross floor area of 4,000 square feet or less for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, auto parts and accessories, and similar consumer goods. The term "food store" sale of food includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this article that are specifically listed.

~~*Story:* That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.~~

~~*Story, Half:* A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.~~

~~*Street:* Any public thoroughfare which affords the principal means of access to abutting property. A public right-of-way, however designated, which provides vehicular access to adjacent areas.~~

~~*Structure:* Anything constructed or erected for human occupancy and/or entrance, the use of which requires location on the ground or attached to something having a location on the ground. That which is built or constructed.~~

~~*Tower or Communication Tower (Wireless Communication Facilities):* Any structure that is designed and constructed for the primary purpose of supporting one or more antennas, including lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This term is not intended to describe buildings or other structures that have been constructed primarily for a purpose other than supporting one or more antennas, despite the fact that such structure may currently, or in the future, actually support one or more antennas.~~

~~*Wireless Communications Facility - (WCF) (cell towers) (Wireless Communication Facilities):* A land use facility that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications. It includes antennas, microwave dishes, horns and other types of monopoles, or similar structures supporting said equipment, equipment buildings, shelters or cabinets, and other accessory development. Wireless communication facility includes personal wireless services as defined in the Federal Telecommunication Act of 1996, and as subsequently amended. Wireless communication facility shall not include the following: federally licensed amateur radio stations, and facilities used exclusively for receive-only antennas, and small cell wireless communication facilities.~~

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Wireless Communications Facility - small cell: A non-tower wireless communications facility that houses an antenna and equipment designed for the purpose of wireless communications and is utilized to boost wireless communications capacity for a limited area. A small cell wireless communication facility is not considered a wireless communications facility (cell tower) regulated by the Zoning Code.

~~Yard: An required open space-area at grade between a building setback line and the adjoining a public right-of-way, access easement or property lot-line, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided allowed in this ordinance code that the building or structure may be located in a portion of a yard required for main buildings. In measuring a yard for the purpose of determining the width of the side yard, the depth of the front yard, or the depth of the rear yard, the shortest horizontal distance between the lot line and the main building shall be used.~~

~~Yard, Front: The required area of open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the main building or of any open, unenclosed porch or paved terrace as measured from the exterior face of the building foundation. The portion of a lot between the front building setback line and the public right-of-way, access easement or property line, whichever is closest to the front of the building as determined by the main entry to which the lot is addressed.~~

~~Yard, Rear: The required area of open space extending across the full width of the lot between the rear most main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such building. The portion of a lot between the rear building setback line and the public right-of-way, access easement or rear property line, whichever is closest to the back of the building.~~

~~Yard, Side: The required area of open space between the main building and the side lot line, extending from the front yard or front lot line, where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building. The portion of a lot between the side building setback line and the public right-of-way, access easement or side property line, whichever is closest to the side of the building.~~

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Article 401 Zoning District Regulations

Sec 401.02 Classification of Districts

- 4. *Commercial (C) districts.*
 - a. C-1, Neighborhood Commercial
 - b. C-2, General Commercial
 - c. C-3, ~~Central~~ Mixed-Use Commercial

Sec. 401.05 Table of Uses

Residential	Use Regs.	A I	R E	R I	R 2	R 3	R 4	RC 2	RC3	RMH	RZ L	RO	DN 1	DN 2	DN3	DN4	C 1	C 2	C3	D C	DE	II	I2
Dwelling - Condominium					•	•	•	•	•			•			•	•		•	•	•	•		
Dwelling—Multi-Family						•	•		•							•		•	•	•	•		

Services	Use Regs	A I	R E	R I	R 2	R 3	R 4	RC 2	RC 3	RM H	RZ L	R O	DN 1	DN 2	DN 3	DN 4	C 1	C 2	C 3	D C	D E	II	I2
Child Care— Commercial <u>Licensed Center</u>	601.07	•	C	C	C	C	C	C	C	C	C	•					•	•	•	•	•	C	C
Child Care— Residential (4 Children) <u>Registered Family Home (5 children or less)</u>	601.07	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Child Care— Residential (5—10 Children) <u>Licensed Family Home (6-16 children)</u>	601.07	C	C	C	C	C	C	C	C	C	C	•	C	C	C	C			•		•		
Office— Small <u>Scale (≤ 4,000 gsf)</u>												•			C	A	•	•	•	•	•	•	•
Office— Large <u>Scale (> 4,000 gsf)</u>																		•	•	•		•	•

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RETAIL	Use Regs.	A1	RE	R1	R2	R3	R4	R-C2	R-C3	R-MH	R-ZL	RO	DN-1	DN-2	DN-3	DN-4	C1	C2	C3	DC	DE	I1	I2
Convenience Store								€									•	•	•	•			
Convenience store that sells Packaged sale of beer and/or light wine for off-site consumption	601.29														C	A C	•	•	•	C			
Convenience store that sells beer and/or light wine for off-site consumption within 500' of a city-owned park or trail	601.29															AC	€	€	€	€			
Convenience store that sells Packaged sale of beer, light wine and/or spirits for off-site consumption	601.29															A C	• C	•	•				
Convenience store that sells beer, light wine and/or spirits for off-site consumption within 500 ft. of a city-owned park or trail	601.29															AC	€	€	€				
Retail— Small Scale (≤ 4,000 gsf)	601.29															C	A	•	•	•	•	•	•
Retail— Large Scale (> 4,000 gsf)																		•		•			

Sec. 401.07-B Downtown Neighborhood (DN) districts regulations.

(c) DN districts lot and area standards.

DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS LOT AND AREA STANDARDS							
				Lot Width		Max. Lot Coverage ©	
District	Building Type	Min. Lot Area (sq. ft.) Ⓐ	Min. Land Area/ Dwelling Unit (sq. ft.)	Min. Lot Width Ⓑ	Max. Lot Width	Interior lot	Exterior/ corner lot
DN-1	Single-family	6,000 5,000	--	60' 50'	--	40%	45%

Sec 401.10 PUD, Planned Unit Development

(b) ~~Minimum area required for PUD districts. The minimum lot area required for property proposed for a Planned Unit Development district shall be 10 acres.~~

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Article 601 Use Regulations

Sec 601.07 Child Care

- (a) ~~Child care, residential~~ Registered child care family home: ~~Four (4)~~ Five (5) children or less. ~~Residential child care~~ A registered child care family home shall meet the provisions of Section 601.12, Home Occupations, Subsection (a), Type A, and shall also meet the following provisions:
- (1) A ~~small residential child care~~ registered child care family home shall not care for more than ~~four (4)~~ five (5) children at any given time, including the ~~children under the age of ten residing in the home or the number approved by the state's licensing board, whichever is fewer~~ caregiver's own preschool children.
 - (2) The dwelling shall meet all City, County and State Health Department requirements as to safety, design, facilities, equipment, and other features and the center shall be operated in a manner that will not adversely affect other properties and uses in the area.
 - (3) The ~~residential~~ registered child care family home shall be located in a single-family dwelling, which is ~~the permanent residence of the operator(s)~~ the caregiver's own residence and shall be operated in a manner that will not change the character of the residence.
- (b) ~~Child care, residential~~ Licensed child care family home: ~~Five (5)~~ Six (6) to ~~ten (10)~~ sixteen (16) children. ~~Residential child care~~ A licensed child care family home, shall meet the provisions of Section 601.12, Home Occupations, Subsection B, Type B; shall meet all of the provisions of a ~~small residential child care~~ registered child care family home; and the additional following provisions:
- (1) A ~~large residential child care~~ licensed child care family home shall not care for more than ten (10) children including the number of children under the age of ten that reside in the home, or the number of children approved by the state's licensing board, whichever is fewer.
 - (2) A large residential child care shall provide verification of a Fire Department inspection at the time of application submittal for a conditional use permit.
- (c) ~~Child care, commercial~~ Licensed child care center. Commercial child care, day care centers, pre-schools, kindergartens, and nurseries shall be operated from structures that are commercial in nature or operated within a religious facility. They shall be limited by the requirements of the State of Arkansas in licensing such a facility, and shall otherwise comply with all area regulations established for the district in which such facility is located.

Sec 601.16 Outdoor and Mobile Food Vendors

- (d) *Outdoor vending*. The following requirements shall apply to outdoor vending at fixed locations:
- (2) *Public property/right-of-way*. Outdoor vending on public right-of-way and public property shall only be permitted in special outdoor vendor districts as identified herein, in public parks only as authorized by the Parks and Recreation Director, or otherwise established by City Council.
 - (3) *Location restrictions*. No outdoor vendor shall be permitted to operate in the following areas:
 - p. City public park property, unless authorized by the Parks and Recreation Director.

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Sec. 601.27 Wireless Communication Facilities

(d) General Guidelines.

- (4) ~~Space may be leased on city owned water towers for the purpose of constructing telecommunication towers and antennas. The addition of a tower or antenna may not add more than twenty (20) feet to the height of the existing water tower. All proposals for leasing of space upon City owned property must obtain approval by the City Council prior to construction and must meet all applicable requirements of this ordinance.~~

Sec 801.13 Signs Allowed Without A Sign Permit

(b) *Additional signs.* In addition to any other allowed sign, the following signs may be installed, mounted and displayed without a sign permit when the current condition of the property meets any of the conditions below, subject to the corresponding rules and conditions. Maximum area is measured per sign face. Maximum height applies to freestanding signs only.

Property Condition	Land Use		Max. No.	Max. Area (sf)	Max Height (ft.)
	Res.	Nonres.			
Property Under Construction	●		1/street frontage of the lot	16	6
		●	1/street frontage of the <u>lot or development</u> neighborhood or subdivision	32	12
Subdivision Under Construction	●	●	1/street frontage of the <u>neighborhood or subdivision</u> lot or development	32	12
Property for Sale or Lease	●		1 freestanding/street frontage and 1 wall/dwelling unit	8	6
		●	1 freestanding/street frontage and 1 wall/lease space	32	8

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Sec 801.15 Signs Allowed With A Sign Permit

The following signs may be installed, mounted, or placed on public display only pursuant to a duly authorized and issued sign permit, subject to the height, area and location regulations specified in this Section. A common signage plan is required in accordance with SEC. 801.09 Common Signage Plan. Erection of the following signs without a permit is a violation of this Section.

1. *Height and area regulations.*

Sign Type	ZONING								Use	No. Allowed	Max. Height	Max. Area (per sign face)
	A1,RE, R1, R2, R3, R4 RC-2, RC-3, PRD, DN1, DN2	RO	C1	C2	C3	DC, DE, DN3, DN4	I1 & I2	PUD				
Wall	●	●							Residential	1/building	1 ft. above roof peak	4 sq. ft., non-illuminated
		●	●	●	●	●	●	●	Non-residential	No maximum number; however, the total area cumulative of all sign faces cannot exceed 15% of the wall area for the building, or suite if applicable.	1 ft. above roof peak	15% of wall area* (includes awning, canopy, window, door, projecting and roof signs) 25 sq. ft. min. allowed

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Sec 200.01 Definitions

~~Access: A way or means of approach to provide vehicular or pedestrian entrance or exit to a property~~The way or means by which a piece of property is approached or entered.

~~AHTD~~ARDOT: Arkansas ~~Highway and Transportation~~ Department of Transportation.

~~Alley: A minor public right-of-way passage or way to the back or the side of abutting properties used for and vehicular access and utility installations abutting a street and not intended for general traffic circulation.~~

~~Apex (Flood Damage Prevention): A point on an alluvial fan or similar landform below which the flow path or the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.~~

~~Base Flood (Flood Damage Prevention): The flood having a one percent (1%) chance of being equaled or exceeded in any given year.~~

~~Basement: Any area of the building having its floor subgrade (below ground level) on all sides~~As defined by the International Building Code as adopted by Bentonville City Council.

~~Building: Any structure used or intended for supporting or sheltering any use or occupancy.~~

~~Buffer, Perimeter Landscape: A continuous area of land set aside along the perimeter of a lot in which landscaping is used to provide a transition between and reduce the environmental, aesthetic, and other impacts of one type of land use upon another.~~

~~Lot, Reverse Frontage: A double frontage lot which is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.~~

~~Manufactured Home: A detached single family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the A dwelling unit constructed in a factory in accordance with and meeting the definitions set forth in the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24 C.F.R., Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, as mandated in the United States of America and as administered by the promulgated by the United States Department of Housing and Urban Development under authority of 42 U.S.C. 5401 et seq., as it existed on January 1, 1976 and as defined in Arkansas State Statute Sec. 20-25-102.~~

~~Manufactured Home Park: A parcel of land which has been designed or improved or is intended to be utilized for occupancy by one or more mobile homes and which conforms to the provisions of this ordinance code.~~

~~Open Space: Open space shall be interpreted to mean:~~

- ~~1. All areas of natural plant communities of~~ fr ~~areas replanted with vegetation after construction, such as re-vegetated natural areas; and~~
- ~~2. Tree, shrub, hedge, or ground cover planting areas; and~~
- ~~3. lawns and other areas allowed to be counted as open space per the Zoning Code and Land Development Code.~~

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Planned Residential Development (PRD): A comprehensive residential planned land development project in which the standard requirements of the Zoning Code and Land Development Code may be varied to allow design flexibility, building clustering, grouping of open space, increased density and alternatives to public facility improvements.

Planned Unit Development (PUD): A comprehensive planned land development project in which the standard requirements of the Zoning ordinanceCode and Land dDevelopment regulationsCode may be varied to permit-allowed design flexibility, building clustering, grouping of open space, increased density and alternatives to public facility improvements.

Setback Line: A line or lines, established by the Zoning Ordinance, designating the area intended for future right-of-way as established by the Master Street Plan and restricting the placement of buildings therein. The required distance between every structure and any lot line on the lot which it is located as established by the Zoning Code.

Structure: Anything inanimate constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including roof overhangs, carports, garages, porches, and other similar structures. That which is built or constructed.

Variance: (Flood Damage Prevention) A grant of relief to a person from the requirements of this ordinancecode when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinancecode. (For full requirements, See Section 60.3 of the National Flood Insurance Program regulations).

Yard: That portion of a lot established by the building lines as minimum open space and intended to be unobstructed and unoccupied by any structure. Such things as fences, poles, posts, fence walls and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height and visibility limitations. A required open area at grade between a building setback line and a public right-of-way, access easement or property line, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically allowed in this code.

Yard, Front: That minimum required open space extending between side lot lines from the front lot line to the nearest point of any building, as set forth in the Zoning Ordinance. The portion of a lot between the front building setback line and the public right-of-way, access easement or property line, whichever is closest to the front of the building as determined by the main entry to which the lot is addressed.

Yard, Rear: That minimum required open space extending between side lot lines measured from the rear lot line to the nearest point of any building, as set forth in the Zoning Ordinance. The portion of a lot between the rear building setback and the public right-of-way, access easement, or rear property line, whichever is closest to the back of the building.

Yard, Side: That minimum required open space extending from the front yard line to the rear lot line on both sides of any lot, measured from the side lot line to the nearest point of any building, as set forth in the Zoning Ordinance. The portion of a lot between the side building setback line and the public right-of-way, access easement, or side property line, whichever is closest to the side of the building.

Attachment B
Land Development Code Amendments

Article 300 Administration and Enforcement

Sec. 300.04 Waivers.

2. No waiver shall be granted except upon written petition by the applicant when the application is filed. Under exceptional circumstances, the Planning Commission may grant waivers at the time of final plat approval. The petition shall state fully the grounds for the waiver and all the facts upon which the petition is made. In granting the waiver, the Planning Commission shall prescribe any conditions that it deems necessary to or desirable in the public interest. In considering the petition for a waiver, the Planning Commission shall take into account the nature of the proposed use of land involved, existing uses of land in the area, proximity to public utilities, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety and general welfare in the vicinity. No waiver shall be granted unless the Planning Commission finds all four of the following:
 1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would unreasonably affect the applicant.
 2. That the waiver ~~is not in conflict with~~ supports the overall goals of the City in adopting these regulations.
 3. That the granting of the waiver ~~will not be detrimental~~ maintains to the public health, safety and welfare ~~is consistent with~~ or injurious to other property in the area.
 4. That the granting of the waiver ~~will not have the effect of preventing~~ enables the orderly subdivision of other land in the area in accord with the provision of these regulations.

Article 500 Final Plats

Sec 500.06 Recording

1. *Owner/developer responsibility.* Upon approval of the final plat and acceptance of the public dedications by the city council, the owner/developer shall submit ~~ten~~ one (1) original paper ~~copies~~ plat, notarized and signed, to the Planning Department.
2. *Planning department responsibility.*
 1. The Planning Department shall have the final plat recorded in the office of the County Recorder within 30 days from the date of submittal of the required documentation. If the final plat is not filed within such time, approval shall be considered as having been abandoned.
 2. Upon recording the plat, the designated city official shall retain the ~~Mylar and two (2)~~ copies original for the ~~planning commission's files and building inspection's~~ city files.

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Land Development Code Amendments**

Sec. 900.02 Items to be Shown on Plat or Plan

The table below establishes the information and details required to be shown on all submittals for preliminary plats, final plats, large scale developments, planned developments and incidental subdivisions. The requirements for planned developments apply to planned unit developments (PUDs) and planned residential developments (PRDs). The requirement shall apply to the development type if a dot (●) is shown in the development type column.

Requirements	Preliminary Plat	Final Plat	Large-Scale Development	Planned Development	Incidental Subdivision
(e) Site specific information					
(28) <u>For phased projects, a phasing plan with phased areas outlined and labeled with a phase number shall be required at the time of original submittal.</u>			●		

Sec 1100.22 Downtown Neighborhood (DN) Districts Design Standards

(d) DN districts general site access and parking.

(1) Parking location.

- a. *Prohibited in front yards.* Garages, parking lots or designated parking spaces are prohibited in the front yard **and corner side yard.**
- b. *Attached garages.* Garages may be attached to the primary structure. However, if the garage is attached, it must be located and oriented in such a way that it does not protrude from the side façade of the primary building in order to be visible from the public street.
- c. *Detached garages.* Detached garages shall be located to the rear of the primary structure.

(2) Parking setbacks.

- a. *Corner lot.* On a corner lot, the garage shall not be located closer than 20' to the corner side lot line in order to allow for outdoor vehicular parking entirely on the lot.
- b. *Detached garages.* Detached garages must be separated from the primary structure by a minimum of 10'.
- c. *Garages with alley access.* Garages with alley access must be setback 8' from the alley.

Sec. 1100.23 Downtown (D) districts Design Standards

(l) Parking placement. Off-street parking shall be located behind or to the side of the primary building. On corner lots, parking drive shall not be located on arterial or collector streets, unless at the intersection of any combination of arterial and collector streets Parking drives are highly discouraged along arterial and collector streets and only allowed if there is no other option for access to parking areas. Off-site parking may be provided off-site within 600' or as shared parking. A shared parking agreement shall be provided to Planning for all residential use parking spaces. The standards for garages and parking for residential uses set forth in Sec. 1100.22 Downtown Neighborhood (DN) Districts Design Standards shall apply to residential uses in the DC and DE districts.

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Sec 1100.24 Bentonville Municipal Airport Design Standards

11. *Exterior materials.* The front, rear, and sides of all buildings and structures shall be constructed with materials approved by the ~~City of Bentonville~~ Airport Advisory Board. Builders are encouraged to use sustainable materials, when possible.
12. *Exterior colors.* Exterior colors shall utilize primarily muted, neutral, or earth tone colors. Builders must choose from a set of four (4) pre-approved color palettes, which will be made available to all prospective builders. The selected color palette shall be approved by the Airport Advisory Board and provided with all plan submittals.