

**TOWN OF HIGHFILL  
ZONING CODE**

**(Revised September 26, 2006)**

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TOWN OF HIGHFILL  
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**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 child care 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 or portion thereof used exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, but not including motels, lodging houses, boardinghouses, tourist homes, or convalescent homes.

Dwelling, Attached: A dwelling which 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 Home: A single-family, manufactured housing unit which has a minimum width of twenty-two feet (22'), 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.

Dwelling, Multi-Family: A building designed for or occupied exclusively by more than two (2) families.

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

Dwelling, Two-Family: A building designed for or occupied exclusively by two (2) families.

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.

Home Occupation: Any occupation or profession conducted in a dwelling unit by an occupant of the dwelling unit which is incidental and secondary to the dwelling unit and does not change the residential character and appearance of the dwelling or the lot in any discernable manner.

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 Lines: Lines imposed on each parcel where the placement of structures is restricted. Front setbacks shall be measured in the manner specified by the town's ordinance establishing setback lines along streets and highways. Side and rear setbacks shall be measured from property lines.

Sign: Any device, structure, fixture, display field or placard, designed for the display of or displaying graphics, any communicative symbols or messages and/or written copy, and the structural foundation thereof which is located outdoors or which is not entirely located under the roof and entirely surrounded by the vertical plane of interior walls, including windows and doors, of a permanent building. The Highfill Sign Code shall govern the design, quality, maintenance and placement of signs visible to the public (see Ordinance No. 02-11, and any subsequent amendments that may be made thereto).

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.

XNA: This refers to the Northwest Arkansas Regional Airport.

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 Code Enforcement Official shall employ the following rules in interpretations thereof. Decisions of the Code Enforcement 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 city limits shall be construed as following city 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 shorelines, 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 Code Enforcement 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 any structure, premises, or land to perform any duty imposed by this Code.

b. If the Code Enforcement 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 building permit shall be issued for the erection, alteration, or moving of a building or structure until after the Code Enforcement Official has reviewed the permit request and issued a Certificate of Zoning Compliance. All building permits shall be issued at Town Hall.

d. All applications for building 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 Code Enforcement 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 Code Enforcement 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 Code Enforcement 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 Certificate of Zoning Compliance shall have been issued thereof by the Code Enforcement Official stating that the proposed use of the building or land conforms to the requirements of this Code. The Code Enforcement Official shall maintain a record of all Certificates of Zoning Compliance, and copies shall be furnished upon request to any person. Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Code and punishable pursuant to provisions contained herein.

f. The Code Enforcement Official shall be responsible for addressing all questions regarding interpretation and enforcement of this Code. Decisions of the Code Enforcement 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 Code Enforcement 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 city at least one (1) time, 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 Code Enforcement 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 Code Enforcement 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 Highfill 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. Responsibility for compliance with American's With Disability Act (ADA) provisions rests, in all respects, with the applicant.

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 Highfill shall, upon the annexation's effective date, exist with a zoning classification of RR 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.

## **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 Highfill, 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 Code Enforcement 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 shall be removed from residential and other districts, where they are either not permitted or are nonconforming, within two (2) years 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. Such structures may be expanded a maximum of twenty-five percent (25%) in gross floor area.
- (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 which 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 which would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

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:

(1) Base Zoning Districts:

NR	Natural Resources
R-1	Residential
R-2	Residential
RR	Rural Residential
C-1	Neighborhood Commercial
C-2	General Commercial
I-1	Light Industrial
I-2	General Industrial

(2) Overlay and Special Purpose Districts:

XNA	Northwest Arkansas Regional Airport Authority Property
AIA	Airport Influence Area

PUD Planned Unit Development District

b. A description of each district follows.

**(1) NR - Natural Resources**

(a) Description and Intent

This district is intended for application to those areas of the town where it is deemed necessary and desirable to protect farm and ranch lands, and to provide open spaces to protect natural areas, floodplains, and water courses.

(b) Permitted Uses

Farms and Ranches (except concentrated feeding operations)	
Lakes & Drainage Basins	Natural Areas
Single-Family Residences	Accessory Buildings & Uses

(c) Conditional Uses

Boarding Stables	Churches
Clubs & Lodges	Plant Nursery
Parks & Recreational Areas	Public & Semi-Public Uses
Accessory Dwelling Units	

\*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	2 acres
Minimum Width at Building Line	200 feet
Minimum Front Setback	25 feet
Minimum Side Setback	20 feet (street side 30')
Minimum Rear Setback	25 feet

(e) Parking Requirements

Two (2) off-street parking spaces shall be required for each single-family residence. Parking requirements for other uses shall be provided pursuant to subsequent provision hereof.

(f) Height, Width, & Area Regulations

1. No building shall exceed two and one-half stories, nor shall it exceed thirty-five feet (35') in height.
2. Accessory building shall be set back a minimum of five feet (5') from the side or rear lot lines.
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.

**(2) R-1 - 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	Accessory Buildings & Uses
Stables (not to exceed 2 horses/acre)	Day Care Family Homes

(c) Conditional Use

Cemeteries & Churches	Clubs & Lodges
Farms, Ranches & Boarding Stables (except concentrated feeding operations)	Public & Semi-Public Uses
Parks & Recreational Areas	

\*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	1 acre
Minimum Width at Building Line	120 feet
Minimum Front Setback	25 feet
Minimum Side Setback	10 feet (street side 30')
Minimum Rear Setback	25 feet

(e) Parking Requirements

Two (2) off-street parking spaces shall be required for each single-family residence. Parking requirements for other uses shall be provided pursuant to subsequent provisions hereof.

(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 set back a minimum of five feet (5'), and shall be located only in the rear yard, or in the side yard behind the building line.
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.

**(3) R-2 – Residential**

(a) Description and Intent

This district is intended for application in existing residential areas characterized by single-family structures, including manufactured homes and duplexes. Lot sizes are generally smaller than those required in other zones permitting residential uses, and population density is generally higher.

(b) Permitted Uses

Single-Family Residences	Accessory Buildings & Uses
Manufactured Homes (see Sec. 10)	Duplexes (on 1 acre lots only)
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	12,000 sq. ft.
Minimum Width at Building Line	80 feet
Minimum Front Setback	25 feet
Minimum Side Setback	10 feet (street side 30')
Minimum Side Setback	25 feet

(e) Parking Requirements

Two (2) off-street parking spaces shall be required for each single-family residence. Parking requirements for other uses shall be provided pursuant to subsequent provisions hereof.

(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 set back a minimum of five feet (5'), and shall be located only in the rear yard, or in the side yard behind the building line
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.

**(4) RR – Rural Residential**

(a) Description and Intent

This district is intended to provide for and protect the rural residential environment. It is established for areas particularly suited for rural residential uses on larger lots in conjunction with the raising of crops and animals and other related activities. Lot sizes are generally larger than those required in other residential zones, and in new residential subdivisions, and population density is generally lower.

(b) Permitted Uses

Farms, Ranches, & Stables (concentrated feeding operations-Conditional Use)	
Single-Family Residences	Day Care Family Homes
Manufactured Homes (see Sec. 10)	Accessory Buildings & Uses

(c) Conditional Uses

Cemeteries & Churches	Day Care Centers
Parks & Recreational Areas	Plant Nursery
Public & Semi-Public Uses	Concentrated Feeding Operations
Accessory Dwelling Units	

\*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 permitted uses in this district.

(d) Lot Dimensions

Minimum Area	2 acres
Minimum Width at Building Line	200 feet
Minimum Front Setback	25 feet
Minimum Side Setback	20 feet
Minimum Rear Setback	25 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. Residences may be built, or manufactured homes placed (see Section 10 requirements), on lots platted previous to the adoption of this Code, provided all setbacks can be met, and provided adequate on-site sanitary facilities (approved by the State Health Department) are approved.
- 2.No building shall exceed two and one-half stories, nor shall it exceed thirty-five feet (35') in height.
- 3.Accessory buildings shall be set back a minimum of five feet (5').
- 4.Only one dwelling per lot, regardless of lot size, shall be permitted.
- 5.Each structure shall have a minimum total dimension on each side of twenty-two feet (22'), and the entire twenty-two feet (22') shall be finished on a permanent foundation.

**(5) C-1 - 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
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	Personal Services

Parks & Recreational Uses  
Single-Family Residences

Photography Studios

\*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	40 feet
Minimum Side Setback	20 feet
Minimum Rear Setback	20 feet

(e) Parking Requirements

Off-street parking spaces shall be required as provided in 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.Building setbacks shall be a minimum of twenty feet (20') for all main buildings in the side and rear yards.
- 3.Minimum front yard setbacks shall be forty feet (40').
- 4.Building coverage shall not exceed forty percent (40%) of the lot area.
- 5.Where a "C-1" 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 "C-1" uses and associated parking areas, shall be so designed and arranged to reflect the light downward, and away from adjacent residential properties.

**(6) C-2 – General Commercial**

(a) Description and Intent

This district is intended to be applied to the central business and other general commercial areas that provide for heavy retail trade, service, and business needs 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	Appliance Stores
Auto Parts Store (new)	Bakery Shops
Banks	Barber & Beauty Shops
Building & Farm Supply Stores	Business Offices
Cabinet Shops	Car Washes
Clinics	Convenience Stores
Drug Stores	Dry Cleaners
Florist Shops	Furniture Stores
Gift & Toy Stores	Government Offices
Grocery Stores	Hardware Stores
Jewelry Stores	Laundromats
Motels	Nurseries
Office Supply Stores	Personal Services
Photography Studios	Professional Offices
Restaurants	Service Stations

(c) Conditional Uses

Single-Family Residences; 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) Lot Dimensions

Minimum Area	¾ acre
Minimum Width at Building Line	120 feet
Minimum Front Setback	40 feet
Minimum Side Setback	20 feet
Minimum Rear Setback	20 feet

(e) Parking Requirements

Off-street parking shall be provided for each use pursuant to provisions herein.

(f) Height, Building, & Area Regulations

- 1.No building shall exceed forty feet (40') in height.
- 2.Building setbacks shall be a minimum of forty feet (40') in the front; twenty feet (20') in the rear; and twenty feet (20') on the sides.
- 3.Accessory buildings shall be set back a minimum of five feet (5') and shall be located only in the rear yard, or in the side yard behind the front building line.

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 "C-2" use abuts a residential district or use.

5. Any light used to illuminate "C-2" uses and associated parking areas, shall be so designed and arranged to reflect the light downward, and away from adjacent residential properties.

**(7) I-1 – Light Industrial**

(a) Description and Intent

This district is intended for clean, quiet industries on amply landscaped sites that can be operated compatibly with commercial, residential, and agricultural 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 Code Enforcement Officer determines may not meet required conditions, shall be referred to the Planning Commission for consideration as conditional uses.

(c) Permitted Uses

Wholesale Distribution Centers	Warehousing & Storage Facilities
	Packaging Plants
	Roofing & Sheet Metal Companies
Contractor Maintenance & Storage Yards	
Building Materials	C-2 Zone Permitted Uses

(d) Conditional 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) Parking Requirements

Off-street parking shall be provided pursuant to provisions herein.

(f) Height, Building & Area Regulations

1. The only height limitations are those associated with XNA operations.

2. Building setbacks shall be a minimum of 150 feet in the front and twenty feet (20') in both the rear and sides. The minimum width at the building line shall be 300 feet.
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 5 acres.

**(8) I-2 – General Industrial**

(a) Description and Intent

This district is intended for the more intensive industries, and those manufacturing facilities making products from raw materials. Such uses are intended to be environmentally compatible with commercial and agricultural uses.

(b) Required Conditions

No use shall be permitted, and no process, equipment, or material shall be employed that 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 Code Enforcement Officer determines may not meet required conditions, shall be referred to the Planning Commission for consideration as conditional uses.

(c) Permitted Uses

Fabrication Plants	Trucking & Freight Terminals
Assembly Plants	Processing Plants
Junk & Salvage Yards	I-1 Zone Permitted Uses
Grain Storage & Elevators	

(d) Conditional 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) Parking Requirements

Off-street parking shall be provided pursuant to provisions herein.

(f) Height, Building & Area Regulations

1. The height limitations are those associated with XNA operations.
2. Building setbacks shall be a minimum of 300 feet in the front and forty feet (40') in the rear and sides. The minimum width at the building line shall be 300 feet.
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 five (5) acres.
5. Junk and salvage yards shall be screened from view on all sides.

### **Overlay and Special Purpose Districts**

The purpose of Overlay and Special Purpose Districts is to provide for enhanced standards to protect and enhance the unique characteristics of specific areas and/or corridors, such as natural scenic beauty or manmade features, while providing for development opportunities. Examples of such purposes include: Promoting the safe use of XNA; Promoting the safe and efficient use of specific roadways by controlling access and other traffic measures; Encouraging the redevelopment of an area consistent with a particular design theme; Giving special attention to landscaping, buffering, signage, lighting and building setbacks in those districts identified as needing special attention; Giving special attention to the existing architectural style or to the style which is planned, so as to create an easily identifiable area in those areas identified as architecturally or historically significant.

The Town Council, upon recommendation from the Planning Commission, may adopt overlay and special purpose districts as the needs are identified in order to implement specific purposes, intents, and design standards generally consistent with the comprehensive plan provisions for the area being regulated, which shall be applied as additional standards to other regulations. The development criteria for each district shall be those standards as set out in each respective district that is adopted. Such districts shall be made a part of the Zoning Code through the standard amendment procedures; and upon adoption, the boundaries of such districts shall be delineated on the Official Zoning Map.

#### **(9) AIA – Airport Influence Area**

It is the intent of this district to provide compatible development, not inconsistent with XNA operations, in the “Airport Influence Area.” It is acknowledged that Highfill is sparsely developed at this time, however the town expects to experience extensive growth and development pressures in the future, particularly in the vicinity of XNA. As such, every effort shall be made to ensure that land use controls are exercised and applied in a manner that will result in the avoidance or minimization of land use conflicts associated with airport operations, ensure safety, and accommodate to the extent possible, future plans for XNA’s growth and expansion.

The Airport Influence Area is defined as XNA property and its environs, where particular land uses either are influenced by or will influence the operation of the airport, in either a

positive or negative manner. That portion of said area in Highfill's corporate limits is shown on the Official Zoning Map. Within this area, all proposed structures and uses shall be subject to conditional use consideration. A Certificate of Zoning Compliance shall not be issued without the Planning Commission's approval of a conditional use application for proposed structures and/or uses. In its effort to make sound planning and development decisions, given XNA's proximity, it is expressly understood that noise sensitive uses may be denied. All applications involving property in the Airport Influence Area shall be made available for XNA's staff review and comment.

### **(10) PUD – Planned Unit Development District**

(a) General Description. It is the intent of this district to encourage development with superior living environments brought about through unified development, and to provide for the application of design ingenuity in such developments, while protecting existing and future surrounding areas in achieving the goals of the Comprehensive Plan for development of the Town. The PUD provisions herein established, are intended to provide for greater flexibility in the design of buildings, yards, courts, circulation and open space than would otherwise be possible through the strict application of other district regulations, and to produce:

1. A maximum choice in the type of environment and living units available to the public;
2. Open space and recreation areas;
3. A pattern of development that preserves natural features, prevents soil erosion, and protects water quality;
4. A creative approach to the use of land and related physical development;
5. An efficient use of land resulting in smaller networks of utilities and streets, and thereby lowering costs; and
6. An environment of stable character in harmony with surrounding development.

The PUD regulations are designed to provide for small- and large-scale developments incorporating a single type or a variety of residential, commercial, and related uses that are planned and developed as a unit. Such development may consist of individual lots or it may have common building sites. Private or public common land and open space should be an essential and major element of the plan that is related to and affects the long-term value of the homes and other development. A planned unit shall be a separate entity with a distinct character and be in harmony with surrounding development.

(b) Standards of Development.

1. Ownership Control. The land in a planned unit development (PUD) district shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the project can be successfully completed.

2. Minimum District Area. Unless otherwise specifically approved by the Planning Commission and Town Council on a project specific basis, the minimum area for a PUD district shall be twenty (20) acres. In calculating the minimum area for a PUD district, the measurements shall include the area of all dedicated streets entirely within the boundary of the proposed PUD, and one-half of the area of all boundary or perimeter streets.

3. Uses Permitted. In order to increase creativity and flexibility in the development of areas suitable for a planned unit development, there are no specifically prescribed uses that are permitted within the boundaries of a planned unit development. The developer shall be responsible for preparation of a list of permitted uses within the specific planned unit development requested. The development list shall take into account the nature and purpose of the PUD area, and such uses and locations shall be appropriate in order to protect and be in harmony with surrounding development.

At the time of the pre-application plan and conference, the applicant shall generally describe the nature and types of land uses to be located within the boundaries of the PUD district. At the time of zoning application and consideration of the preliminary plat, a specific written list of uses to be "permitted by right" shall be submitted for review by the planning commission. If approved by the planning commission and town council, the list of specific uses permitted by right shall serve as the control list in issuance of building permits and certificates of occupancy.

In addition to the above permitted uses that are established by right, certain other uses may be prescribed by the developer in accordance with the restrictions included herein and said uses are designated as conditional uses. These uses more intensely dominate the area in which they are located than do other uses that might be permitted in the PUD district and, as such, they require special considerations and restrictions. If the developer and/or planning commission agree that certain conditional uses should be included within the PUD district, the applicant shall precisely indicate the specific use, its location, area to be included, maximum building square footage, and such other information as required by the planning commission to properly and comprehensively evaluate the nature and impact of such conditional uses. When such conditional uses are approved at the time of rezoning, they shall not be subsequently changed to any other use until and unless they are changed to another use that is permitted by right, or the new proposed use if not permitted by right in a PUD district, is resubmitted for rezoning approval.

4. Parking and Off-Street Loading. All uses established with a planned unit

development district shall comply with the off-street parking and loading requirements as established in the town's zoning regulations. However, the requirements for individual structures or lots may be met through either provision of adequate parking on the lot on which such structure is so located, or upon adjacent property which is under the control of a property owners' association, to which said lot is an automatic participant. In no case, however, shall the cumulative requirements of all parking and off-street loading requirements be less than if said uses were individually established and located in any other zoning district within the town.

5. Perimeter Requirements. In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD district or adjacent to any boundary or perimeter street right-of-way. While no specific setbacks are herein established, the planning commission shall consider the extent and character of the adjacent development, and shall take into consideration the types of area regulations applicable to adjacent properties.

6. Residential Density Standards. The maximum number of dwelling units permitted within a PUD district is dependent upon both the type and number of each type of residential units intended to be included in the PUD district. Densities within certain areas of the PUD may be beyond the overall limits through a transfer of density. However, overall project densities shall not be exceeded in accordance with the following schedule:

- a. Eight (8) dwelling units per net residential acre for single-family attached and detached houses and duplexes.
- b. Fifteen (15) dwelling units per net residential acre for triplexes, four-plexes, and row or terrace housing.
- c. Eighteen (18) dwelling units per net residential acre for two story, and twenty-seven (27) units per net residential acre for three story apartments.
- d. Forty (40) dwelling units per net residential acre for high-rise (four stories or more) apartments.

For purposes of calculating densities, net residential acres are defined as gross acres of the PUD site minus all public rights-of-ways, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature. Common open space that is owned and maintained by a property owners' association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one property owners' association is to be created, then each common open space can only be attributed to the lot or dwellings which have automatic membership for that specific common open area.

7. Open Space Requirements. Common open space constitutes an essential ingredient in a planned unit development and is one of the most basic and important

design elements. Open space should be distributed more or less equitably throughout the PUD district in relationship to the dwelling units and other use areas intended to be served by the common open space. Adequate guarantees must be provided that the common open space areas as in the plan for the PUD district are preserved and maintained for those purposes only. A minimum of twenty percent (20%) of the total project area shall be devoted to lawn and/or green space, exclusive of paved surfaces. A property owners' association shall be required, if other arrangements satisfactory to the planning commission have not been made, for improving, operating and maintaining all such common open space areas. At the time the final plan and plat is submitted, the articles of incorporation and bylaws of the property owners' association shall be reviewed and approved by the planning commission. Additionally, the restrictive covenants which run with the land must be submitted and include similar provisions to preserve all open space areas.

(c) Procedures For Obtaining PUD Zoning. A three-step review procedure is required for obtaining PUD zoning and final approval of the final plan and plat. The first step involves a pre-application plan and conference which is designed to provide information to the town of the developer's intention with respect to the nature and scope of the PUD district, and to allow the developer to be informed of the Town's policies concerning development alternatives for the area. The second step involves submission of a formal application for rezoning of the area to a PUD district and simultaneous submission of a preliminary plat in accordance with the Town's subdivision regulations. The last step involves submission of the final development and plat for approval and recording prior to commencing building construction. These steps are outlined as follows with respect to the procedure followed and submission requirements at each step:

1. Pre-application Plan and Conference.
  - a. Procedure.
    - (i) A pre-application plan shall be submitted to the planning staff for review of the area and proposed uses relative to the compatibility of a planned unit development project with existing development in the surrounding area and the comprehensive development plan of the town.
    - (ii) Each applicant shall confer with town planner and interested department heads in connection with the preparation of the planned unit development application. It shall be the responsibility of the town planner to contact and invite interested department heads and other parties to a joint meeting. The general outlines of the proposal, evidenced schematically by the pre-application plan and such other information as may be desired, are to be considered before submission of the planned unit development application.
    - (iii) Upon review of the site plan and general area, and following completion of the pre-application conference, the town planner shall furnish the applicant with written comments regarding the

conference, including appropriate recommendations to inform and assist the applicant prior to preparing the components of the planned unit development application.

b. **Submission Requirements.** At the time of requesting a pre-application conference, the applicant shall submit a scaled site plan and such other narrative or graphic information the applicant deems pertinent to the town's initial review and evaluation of the potential of the PUD district proposed. The pre-application plan shall include the following:

- (i) Boundaries of the property involved;
- (ii) Existing zoning of the area and zoning of adjoining properties;
- (iii) Existing roadways, easements, and waterways;
- (iv) Indication of availability of all utilities;
- (v) General plan of development, at a level of detail sufficient to indicate to the town the nature and scope of the project as to its magnitude in terms of approximate number and types of dwelling units; location and extent of nonresidential elements; proposed major open space areas; and circulation and access.

2. **Zoning Application and Preliminary Plat.** After receiving written comments following the pre-application conference, the applicant may proceed in preparing a formal application for a planned unit development to the planning commission. The application shall consist of a simultaneous submission of a preliminary plat and a rezoning application. The preliminary plat shall conform to all requirements contained in the subdivision regulations with the exception of certain design requirements regarding lots, setbacks, etc., that are specifically exempted or modified by provisions of this chapter. The rezoning application shall be processed following the procedure for map amendments.

a. **Submission Requirements.** The applicant shall simultaneously submit both a preliminary plat and a rezoning application. To form the basis for the rezoning application, a preliminary site plan shall be submitted and it shall include at least the following information:

- (i) Proposed title of the project and name of any engineer, architect, land planner, land surveyor, landscape architect, or company responsible for various elements of the plan.
- (ii) North point, graphic scale, and date.
- (iii) Boundaries of the properties involved, all existing easements, section lines and property lines, existing streets, existing buildings, watercourses, waterways or lakes, and other existing physical features in and adjoining the property.
- (iv) Location and sizes of sanitary and storm sewers, water mains, culverts and other underground structures in and adjacent to the

project.

- (v) Topography of the project area with appropriate contour.
- (vi) General land use development plan of the area indicating the location of different land uses, dwellings by types and numbers, areas designated for commercial uses and other nonresidential uses, and areas proposed for open space and recreational use. For all residential areas, the site plan shall clearly indicate the type and number of dwellings to be located per parcel, lot or block in accordance with the preliminary plat. For all commercial or other uses, the areas shall clearly be indicated in accordance with lots, parcels, or blocks, and each such parcel shall indicate the type of building proposed, number of stories, and gross square footage to be included on each parcel. The boundaries of all open space areas shall be clearly indicated along with the form of proposed ownership, that is, by property owners' association or public park or other legal entity, and in such case where more than one property owners' association is being created, documentation shall be clearly submitted as to which areas will have automatic membership into said associations. This requirement, however, shall not be interpreted as requiring a detailed site development plan that includes the exact boundaries and locations of all structures proposed for construction.
- (vii) All setback lines for all properties shall be shown.
- (viii) If the project is to be developed in more than one phase, the boundaries of each proposed phase shall be clearly indicated on the site plan map.
- (ix) Calculations shall be submitted of the total number of gross acres in the project, and the acres and percentage thereof, proposed be devoted to the several dwelling types, commercial uses, other nonresidential uses, streets, parks, schools, and other reservations.
- (x) Tabulation of the total number of dwelling units by various types in the project, and the total number of net residential acres within the project. The tabulations shall so indicate conformance of the proposed project, or each phase within the project, to the residential density standards for the PUD district.

3. Final Plan and Plat. Upon approval of the rezoning request by the town council, the applicant may proceed with the preparation of the final plan and plat. The final plat shall meet all applicable requirements of the Town's subdivision regulations, and shall be processed in accordance with those regulations. The applicant shall submit a written and graphic description of any modifications made to the final plan from the approved preliminary plan. If it is determined that no changes have been made from the preliminary plan, or if only minor plan changes have been made in accordance with the definition provided herein below, then the review by the planning commission may proceed and the plat may be submitted to

the planning commission for approval. If approved, the plat shall be filed in the office of the county circuit clerk.

(d) Amendments. Amendments may be required either to the preliminary site plan or the final development plan. The procedure governing the disposition of amendments shall be as follows:

1. Amendments to Preliminary Plan. At the time a final plan is submitted for review, it shall be determined whether or not any amendments have been made to the approved preliminary plan. If amendments have been made, then a determination shall be required as to whether or not said amendments constitute a major or minor plan change. Modifications from the previously approved preliminary plan shall be deemed to be minor plan changes if any and all modifications of the plan by the applicant do not:
  - (i) Vary the total number of dwelling units by more than five percent (5%);
  - (ii) Involve a reduction of the area set aside for common open space nor the substantial relocation of such area or areas;
  - (iii) Increase by more than five percent (5%) the total floor area proposed for any nonresidential use; and
  - (iv) Does not substantially change the location of any nonresidential areas as shown on the preliminary plan.

Additionally, modifications in the location or design of minor streets, cul-de-sacs, alleys, or facilities for water and for disposal of storm water and sanitary sewage shall not be considered as major modifications.

All other changes in the planned unit development, including changes in the site plan and development schedule, must be made under the procedures that are applicable to the initial approval of a planned unit development project.

2. Amendments to Final Development Plan. The final development plan as submitted and approved may be amended in accordance with the following. Minor change may be authorized by the town planner, in such cases where changes are required by engineering or other circumstances not foreseen at the time the final development plan was approved. No change authorized by the town planner under this section, however, may either increase the total area devoted to any and all nonresidential uses, or decrease the amount of area devoted to common open space, or increase the total number of dwelling units located on any lot, block, or parcel as approved in the final development plan. Notwithstanding any of these conditions, the town planner may not permit changes beyond the minimum or maximum requirements set forth in these regulations. All

other changes in the planned unit development, including changes in the site plan or the development schedule, must be made under the procedures that are applicable to the initial approval of a planned unit development.

(e) Administration and Enforcement.

1. Review Standards. The planning commission shall investigate and ascertain that the plans for a planned unit development meet the following conditions:
  - (i) That the tract of land for the entire project comprises not less than twenty (20) acres.
  - (ii) That the project is in conformity with the requirements and standards of development of the planned unit development district and is consistent with the intent and purpose of this section.
  - (iii) That the proposed project constitutes an environment of sustained desirability and stability, and that it is in harmony with the character of the surrounding neighborhood, and is not inconsistent with the town's comprehensive plan.
  - (iv) That the property adjacent to the proposed development will not be adversely affected.
2. Recorded Plat and Plot Plan Required. The proposed development shall follow all applicable procedures, standards, regulations, and laws governing the subdivision of land. No building permit for any structure shall be issued until a final plat of the proposed development, or part thereof, is approved and recorded and an approved plot plan is submitted in accordance with these regulations.
3. Phasing and Development Schedule. The applicant shall clearly indicate on the site plan map, the boundaries of each proposed phase. If the sequence of construction of various portions of the development is to occur in phases or stages, then the open space and/or recreational facilities should be developed or committed thereto in proportion to the number of dwelling units intended to be developed during any given stage of construction.

Additionally, the applicant shall submit a schedule of construction for the project, or for each phase within the project, indicating the sequence of development according to residential type and other nonresidential construction within the project. Upon adoption of the schedule of construction, the building inspector shall be responsible for enforcing this schedule. If the building inspector determines that the rate of construction of residential units or nonresidential structures differs from the construction schedule, he shall so notify the developer in writing. Thereafter, the building inspector may issue such orders to a developer as

necessary to correct said schedule, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or nonresidential structures until compliance is achieved.

4. **Guarantee of Completion.** Before approval of the final development plan, the planning commission shall require a contract with safeguards satisfactory to the commission guaranteeing completion of the development plan for any single phase in a period to be specified by the commission, but which period shall not exceed five (5) years, unless extended by the commission.
5. **Causes for Revocation.** The planning commission may recommend to the town council that any previous planned unit development approval be revoked, and all building permits be voided under the following circumstances:
  - (i) If the applicant has not submitted a final development plan to the town within one (1) year of preliminary plan approval. Where an optional development plan is utilized, the affected portion of the approved preliminary plan may be revoked in its entirety, or to the extent of that portion on which a final development plat has not been submitted and approved.
  - (ii) If no building permit has been issued within two (2) years from the recording date of the final development plan map, or initial plan of a staged final development plan map, and the applicant has not been granted an extension.
  - (iii) If the applicant does not adhere to the phased development schedule as stated in the approved preliminary development plan.
  - (iv) If the construction and provision of all common open spaces and public and recreational facilities that are shown on the final development plan map are proceeding at a substantially slower rate than project components.

From time to time, the planning commission shall compare the actual development accomplished with the approved development schedule. If the commission finds that the rate of construction of dwelling units or other structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the planning commission may initiate revocation action or cease to approve any additional final development plans/plats if preceding phases have not been finalized. The town may also issue a stop work order or discontinue issuance of building permits, or revoke those previously issued.

**(11) XNA - Northwest Arkansas Regional Airport Authority Property.**

This area denotes the property owned by and under the management and supervision of the Northwest Arkansas Regional Airport Authority. The provisions hereof shall be applicable to such property only to the extent provided or allowed by Arkansas law.

**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 pedestrianways 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 pedestrianways 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 Code Enforcement 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 Code Enforcement Official shall insure that the matter is set for public hearing before the Planning Commission. The Code Enforcement 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 evidence to the Code Enforcement Official, at least ten (10) days prior to the required public hearing, 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 evidence shall consist of postmarked, certified receipts and/or return receipts

and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the applicant certifies have been so notified.

- (3) The Planning Commission shall review conditional use permit applications at its regularly scheduled monthly 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 for not to exceed one (1) month, deny the application, or refer it to the Town Council for final disposition. 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 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 building 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. Upon 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 unlimited period or for an additional period of years.

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 at least five feet (5') 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 R-1 or R-2 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, provided they are outside the AIA District, 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.

- (1) Accessory dwelling units shall be allowed if conditional use approval is given by the Commission in NR and RR districts provided that the dwelling unit is used to house immediate family members or employees who work on-site. 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.
  - (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 not more than one and one-half (1½ ) 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 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 shall comply in all respects with the Highfill Sign Code. Under penalty of law, no signs shall be placed on traffic or official signs, utility poles or living trees.

## **SECTION 10. GENERAL STANDARDS**

a. Manufactured Homes. All manufactured dwelling units shall comply with the following standards.

- (1) Size

- (a) The minimum width of a manufactured home shall be twenty-two feet (22'), with width measured perpendicular to the longest axis at the narrowest part.
- (b) The length of a manufactured home shall not exceed four (4) times its width, with length measured along the longest axis.
- (c) A manufactured home shall have a minimum area of one thousand one hundred fifty (1,150) 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 the building 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.

- (5) Entrance Landing Area. At the main entrance door to the unit, there shall be a landing that is a minimum of five feet (5') constructed in accordance with building code requirements.

- (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.
- (8) Additions. Attached additions and detached garages shall comply with the building code, and floodplain regulations, if applicable. All standards of this section shall apply to such additions and garages.
- (9) HUD Code Certification. Prior to issuance of a permit to locate a manufactured home in Highfill, evidence shall be presented to the Code Enforcement 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/dwelling unit
- 2. Retail Sales & Convenience Stores – 5 spaces/1,000 square feet of gross floor area
- 3. Business/Professional Offices & Banks – 3½ spaces/1,000 square feet of gross floor area
- 4. Personal Services – 5 spaces/1,000 square feet of gross floor area
- 5. Restaurants – 15 spaces/1,000 square feet of gross floor area
- 6. 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
- 7. Churches – 1 space/4 seats in the sanctuary

(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 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 the city attorney, 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; provided driveways serving single-family dwellings shall only be required to pave the first one hundred feet (100'), as measured from the street. The area of the driveway from the edge of the street to the property line shall be paved.
- (g) All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all stormwater, and to not increase the stormwater runoff onto the surface of adjoining properties or streets.

- (h) The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of single-family residences. Landscape islands and other interior features within parking lots shall also be protected by curbs. The area between the curb and the property line, except for the driveway, shall be maintained as green space by the property owner.
- (i) 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.
- (j) 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.
- (k) 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.
- (l) Drive aisles within off-street parking lots shall be two-way, with a minimum width of twenty-four feet (24').
- (m) All required parking and loading spaces, driving aisles, and accessways 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.
- (n) 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 one and one-half (1½) tons.
- (o) One boat, one trailer and 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.

(p) 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. 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 city 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') unless approved by the Planning Commission; provided fencing around tennis courts and other recreational amenities, shall be exempt from this height limit.
- (2) Fences shall comply with the corner visibility standards of (f) above.
- (3) 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, except galvanized metal, 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 two (2) acres in area.

## **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 in the Ordinance or Map may 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 Town in a newspaper of general circulation in the town.

d. Individual property owners applying for changes to the Official Zoning Map shall present evidence, 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 Town Council unless the Planning Commission finds that a substantial change in conditions has occurred.