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# ZONING ORDINANCE

CITY OF MALVERN, ARKANSAS

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## FOREWORD

### Art. F-1 PURPOSES AND AUTHORITY

The zoning and subdivision regulations as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, or the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements. Zoning regulations have been developed with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City. Subdivision regulations have been developed to assure a coordinated street system and quality development of new living areas in and adjacent to the City.

### Art. F-2 CONFORMANCE OF PLANS

The City Planning Commission of Malvern, Arkansas, having made a comprehensive study of present conditions and future growth of the City and prepared and adopted a Land Use Plan, finds that this Ordinance would carry out the intent of the Land Use Plan.

## CHAPTER I: DEFINITIONS

### Art. 1-1: DEFINITIONS

Certain words and phrases shall for the purpose of this Ordinance have the following meaning:

1. Accessory Building and Use: A subordinate building including metal pre-fabricated buildings located on the same lot with the main building, or subordinate use of land, either of which is customarily incident to the main building or to the principal use of the land. Where a part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a manner as by a roof, such accessory building shall be counted as part of the main building.
2. Alley: A minor permanent public service-way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street, or which may be used for public utility services. Alleys may not serve as the only access to a property.
3. Apartment: A room or suite of rooms within a building, provided with separate cooking facilities and intended as a single dwelling unit.
4. Area: The amount of land surface in a lot or parcel of land.
5. Automobile Salvage Yard: Any lot or place which is exposed to the weather upon which more than 5 motor vehicles of any kind incapable of being operated are placed.
6. Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. 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.
7. Building Height: Building height is the vertical distance from the curb level, or its equivalent, opposite the center of the front of a building to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the dock line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Where no curb level has been established, the height of a building may be measured from the mean elevation of the finished lot grade at the front of the building.
8. Building, Detached: A building having no party wall in common with another building.
9. Building Line: A line on a plat between which line and the street right-of-way, no portion of the building may be erected, including landings, open balconies, and roof overhangs, subject to the further requirements of the Zoning Ordinance.

10. Building Supply Company: Any establishment, or part of an establishment, operated, maintained or conducted for the sale or offering of any of the following articles: hardware, tinware, aluminumware, enamelware, cutlery, tools, implements, apparatus, machinery, and other supplies each of which relate to building or lawn care. Lumber sold on the premises shall be compatible and subordinate to other items sold, and not the primary supply and distribution item of the business; and shall typically be sold in small lots rather than large quantity.
11. Cemetery: A place for burial of deceased humans, including crematory facilities as an accessory use.
12. Child Care Center: Nursery-child care center is any establishment which provides supplemental parental care and supervision, and/or educational instruction to 2 or more children during the whole or any portion of the day on a regular basis for compensation.
13. Church: A building, together with its accessory buildings, and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
14. Clinic, Medical or Dental: An organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include in-patient care.
15. Conditional Use: A use which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After review and due consideration, the Planning Commission may approve the request as submitted or with conditions.
16. District: A part or parts of the incorporated area of Malvern for which the Zoning Ordinance establishes regulations governing the development and use of land therein. For interpretation of District Boundaries, see Chapter II, Art. 2-3.
17. Dormitory: A building providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution.
18. Dwelling: A building or portion exclusively for residential occupancy, including One-family, multi-family, and single dwellings, but not including hotels, motels, lodging houses, boarding houses or tourist homes.
19. Dwelling Unit: A dwelling unit consists of one or more rooms which are arranged, designed, or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each "dwelling unit."
20. Dwelling, Attached: A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.
21. Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot.

22. Dwelling, Single Family: A building designed for or occupied exclusively by one family.

23. Duplex: A building designed for or occupied exclusively by 2 families.

24. Dwelling, Multiple Family: A building or portion thereof designed for or occupied exclusively by more than one family.

25. Educational Institution: A public, parochial or private pre-primary or kindergarten, primary, grammar or high school; a private preparatory school or academy providing courses of instruction substantially equivalent to the courses offered by public high schools for preparation for admission to college or universities which award B.A. or B.S. degrees; a junior college, college or university if not conducted as a commercial enterprise for profit. Nothing in this definition shall be deemed to include trade or business schools or colleges.

26. Flood Plain: A geographic area susceptible to periodic inundation from overflow of natural waterways and determined as to extent by the U. S. Army Corps of Engineers.

27. Floodway: The channel of a watercourse and adjacent land areas which are required to carry and discharge the flood water of the watercourse of a regulatory flood without substantially increasing flood heights.

28. Floodway Fringe: The area adjoining a watercourse, not lying within a floodway which has been or may hereafter be covered by a regulatory flood.

29. Frontage: Frontage is the length of all the property fronting on one side of a street between the 2 nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

30. Garage, Private: A detached accessory building or portion of a main building, used for the storage of self-propelled passenger vehicles where the capacity does not exceed 3 vehicles, or not more than 2 per family housed in the building to which such garage is accessory, whichever is the greater, and not more than one-third the total number of vehicles stored in such garage shall be commercial vehicles. Storage space for not more than 3 vehicles may be rented for vehicles of other than occupants of the building to which such garage is accessory.

31. Garage, Parking or Storage: Any building, except one herein defined as a private garage, used exclusively for parking of self-propelled passenger vehicles, and with not more than 3 pumps for the incidental sale of gasoline.

32. Garage, Public or Repair: Any premises, except those described as a private or parking garage, used for the storage or care of self-propelled passenger vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

33. Home Occupation: Home occupation is any occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there are no advertising signs other than one non-illuminated name plate not more than 2 square feet in area attached to the main or accessory building; there is no commodity sold that is not created on the premises; and no person is employed other than a member of the immediate family residing on the premises; no equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property line. A professional person may use their residence for infrequent consultation, emergency treatment, or performance of religious rites, but not for the general practice of their profession. The keeping of not more than 2 roomers or boarders shall be considered a permitted home occupation. A beauty shop having facilities to serve no more than one person shall be considered a permitted home occupation.

34. Hospital: Includes "sanitarium," "sanatorium," provided such institution is operated by, or treatment is given under direct supervision of a physician licensed to practice by the State of Arkansas.

35. Hotel: Hotel is an establishment more than 2 stories in height which is open to transient guests, in contradistinction to a boarding, rooming, or lodging house, and is commonly known as a hotel in the community in which it is located; and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk service, the use and upkeep of furniture, and bellboy service.

36. Industrial Park: Industrial park is a special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.

37. Kennel: Any lot or premises on which are kept 3 or more dogs, such dogs being more than 6 months of age.

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

39. Lot Area: The total horizontal area within the boundaries of a lot exclusive of any area designated for street purposes.

40. Lot, Corner: A lot abutting upon 2 or more streets at their intersection.



41. Lot, Double Frontage: A lot having frontage on 2 non-intersecting streets, as distinguished from a corner lot. Structures located on double fronted lots shall be oriented in a manner consistent with surrounding lots.
42. Lot Depth: Lot depth is the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
43. Lot Line, Interior: Any lot line which is not also a street right-of-way line.
44. Lot Width: The distance parallel to the front of a building erected or to be erected, measured between side lot lines at the building line.
45. Lot Line Front: That boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line.
46. Lot Line, Rear: That boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.
47. Lot Line Side: Any boundary of a lot which is not a front lot line or a rear lot line.
48. Manufactured Home: A residential dwelling built in accordance with the Federal Manufactured Home Construction and Safety Standards.
49. Modular Home: A residential dwelling, constructed in a factory to a residential construction code other than the Federal Manufactured Home Construction and Safety Standards.
50. Mobile Home: A residential dwelling that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, built prior to enactment of the Federal Manufactured Home Construction and Safety Standards, and consistent with any state definitions.
51. Manufactured Home Park: A tract of land of a minimum of 6 acres, located on a collector street, designed and developed for the placement of manufactured housing units thereon, and to be used for dwelling purposes only except as provided herein. Mobile home spaces can be for rent, sale, or lease, and each mobile home space shall be located on an access easement of a minimum width of 30 feet. No sale or display of mobile homes is permitted in a mobile home park. See Subdivision Regulations for specific requirements.
52. Motel: An area containing one or more buildings (2 stories or less in height) designed or intended to be used as temporary sleeping facilities of one or more transient persons or families and intended primarily for automobile transients.
53. Nonconforming Building or Structure: Any building or structure which does not comply with all of the regulations of this Ordinance or of any amendment hereto.

54. Nuisance: Any regular or intermittently occurring activity or use that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property line except as specially defined in Industrial Zoning Districts.

55. Office, Professional: The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical, or agricultural, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either, advising or guiding them in serving their interest or welfare through the practice of an act founded thereon. Examples of professional offices are those accommodating real estate personnel, engineers, architects, city planners, accountants, attorneys, appraisers, dentists, and doctors of medicine.

56. Parking Area: Any area, other than a street, whether open, covered, or enclosed, used for the parking or storage of automobiles, boats, trucks, trailers or other wheeled vehicles, whether free or for compensation, or for accommodation of clients, customers, employees, members, visitors or for residents of structures of higher density than two-family. For specific requirements, refer to Chapter VI.

57. Parking Space, Off-Street: A space on private land accessible from a usable street or alley, not less than 9 feet wide and 20 feet long, with the necessary maneuvering room within the private property.

58. Place of Public Assembly: A meeting place in which the public or membership groups are assembled regularly or occasionally, including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

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

60. Property Lines: The ownership lines bounding a lot, or combination of platted lots to be used as a single parcel.

61. Salvage Yard: A parcel of land on which waste material or inoperative vehicles and other machinery is collected, stored, salvaged or sold.

62. Service Station: Any structure or premises used for dispensing or sale, at retail, of automotive vehicle fuels or lubricants, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

63. Setback: The minimum horizontal distance between the building line and the property line.

64. Sign: A name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land, and which directs

attention to an object, product, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display of official court or public office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building not visible from the exterior.

65. Story: Story is that part of a building between any floor and the floor next above, and if there be no floor above, then the ceiling above. A basement is a story if its ceiling is 5 feet or more above the level from which the height of the building is measured, or if it is used for business purposes, or if it contains any dwelling units other than one dwelling unit for the caretaker of the premises.

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

67. Street: A general term denoting a public thoroughfare which affords the principal means of access to abutting property. The term includes all facilities which normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, court, but shall not include an alley or a pedestrian way.

68. Street Intersection: Any street which joints another street at an angle, whether or not it crosses the other.

69. Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, except that driveways shall not be considered structures.

70. Structural Alterations: Any change in either the supporting members of a building, such as bearing walls, columns, beams or girders, or in the roof and exterior walls.

71. Trade or Business School: School conducted as commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include "educational institution" as defined in this section.

72. Use: As utilized in this Chapter, use is any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

73. Use Permitted on Review: See "Conditional Use."

74. Use, Nonconforming: Any use of land, building, or structures, or any combination thereof, lawful at the time of the enactment of this Ordinance, which does not comply with all of the regulations of this Ordinance or of any amendment hereto governing use for the zoning district in which such use is located.

75. Use, Permitted: A use which may be lawfully established in a particular District or Districts, provided it conforms with all requirements, regulations, and standards of such District.

76. Use, Principal: The main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may also be a "Conditional Use" or "Use Permitted Upon Review."

77. Variance: An authorized departure from the strict regulations of this Ordinance which may be granted in conformance with provisions of Chapter VIII.

78. Veterinary Clinic or Hospital: An establishment operated by a licensed doctor of veterinary medicine providing medical care to animals except that horses, cattle, and other similar large animals shall not be left on the premises by the owner.

79. Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

80. Yard, Exterior: A yard between any property line and any building or group of buildings.

81. Yard, Front: A yard extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the main building.

82. Yard, Interior: The yard area between any 2 or more buildings within a building group facing or backing each other. The minimum distance between buildings not orienting to each other at the side of the buildings shall not be considered interior yard.

83. Yard, Rear: A yard extending across the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

84. Yard, Side: A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building.

CHAPTER II: ESTABLISHMENT OF DISTRICTS

Art. 2-1: CLASSIFICATION OF DISTRICTS

For the purpose of promoting the public health, safety, morals, and general welfare of the Community, the City of Malvern, Arkansas, is hereby divided into the following types of districts:

R-1 Districts:	One-Family Residential Uses.
R-2 Districts:	One, Two and Multiple Family Residential Uses.
R-3 Districts:	One, Two and Multiple Family Residential Uses.
R-4 Districts:	Manufactured Home Parks
R-5 Districts:	Manufactured Home District
C-1 Districts:	Central Business Uses.
C-2 Districts:	Highway Commercial Uses.
C-3 Districts:	Neighborhood Commercial Uses.
C-4 Districts:	Office Commercial Uses.
I-1 Districts:	Heavy Industrial Uses.
I-2 Districts:	Light Industrial Uses.
FW Designation:	Floodway Overlay
FF Designation:	Floodfringe Overlay
QZ Districts:	Quiet Zones
PUD Districts:	Planned Unit Developments

Art. 2-2: BOUNDARY OF DISTRICTS

The City is hereby divided into districts, or zones, as shown on the Official Zoning District Map which, together with all explanatory data thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning District Map shall be identified by the signature of the Mayor, attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning District Map referred to in Article 2-2 of the 1997 Zoning Ordinance of Malvern, Arkansas adopted on the                      day of                      1998."

If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other data portrayed on the Official Zoning District map, such changes shall be made on the Official Zoning District Map within 30 days after the amendment has been approved by the City City Council. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning District Map.

No changes of any nature shall be made in the Official Zoning District Map or information shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable under Chapter X, of this Ordinance.

Regardless of the existence of purported copies of the Official Zoning District Map which may from time to time be made or published, the Official Zoning District Map which shall be located in the Office of the City Clerk shall be the final authority as to the current zoning status of lands, buildings, and other structures in the City.

Art. 2-3: RULES FOR INTERPRETATION OF BOUNDARY DISTRICTS

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

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys or creeks shall be construed to follow such center lines.
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 shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line.
5. Boundaries indicated as parallel to or extensions of features indicated in paragraph "1" through "4" of this section shall be so construed. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
6. Whenever any street, alley or other public way is vacated or abandoned by official action by the Mayor and City Council City Council of the City of Malvern, Arkansas, the zoning district boundaries on each side of such street, alley or public way shall be automatically moved to the center line of same and all area included therein shall then and henceforth be subject to all appropriate regulations of the extended districts.

7. Where the street or property layout existing on the ground is at variance with that shown on the Official Zoning District Map, or in other circumstances not covered by paragraphs "1" through "6" of this Section, the Board of Zoning Adjustment shall interpret the district boundaries.

## CHAPTER III: GENERAL PROVISIONS

### Art. 3-1: GENERAL

Except as hereinafter provided in this Ordinance:

A. No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk,
2. To accommodate or house a greater number of families,
3. To occupy a greater percentage of lot area,
4. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required; or in any other manner contrary to the provisions of this Ordinance.

C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

E. All structures constructed or occupied in conformance with this Ordinance shall also conform to all other codes and regulations of the City.

F. Persons or corporations owning or developing property at intersecting streets shall not install, set out, or maintain, or allow the installation, setting out, or maintenance of any sign, hedge, shrubbery, natural growth, or other obstruction to the view higher than 3 feet, 6 inches above the level of the center of the adjacent intersection within that triangular area between the property line and a diagonal line joining points on the property lines 25 feet from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve and a diagonal line joining points on said tangent 25 feet from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve and at the corner.



The foregoing provisions shall not apply to permanent buildings; public utility poles; trees trimmed to the trunk to a line at least 8 feet above the intersection; saplings, or plant species of open-growth habits and not planted in the form of a hedge which are so-planted and trimmed as to leave at all seasons a clean and unobstructed cross-view; supporting members of appurtenances to permanent structures existing on the date this ordinance becomes effective; official warning signs or signals to places where the contour of the ground is such that there can be no cross-visibility at the intersection; or to signs mounted 10 feet or more above the ground, and whose supports do not constitute an obstruction as defined above.

No obstruction to cross-visibility shall be deemed to be excepted from the application of this section because of its being in existence at the time of the adoption hereof.

Any person or corporation found to be violating any provision of this section shall be served by the City with written notice stating the nature of the violation and providing 21 days for the satisfactory correction thereof. After the expiration date indicated by the notice of violation, any person who violates this section shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 30 days, or both, and in addition, shall pay 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.

Art. 3-2: ANNEXATION

see ord # 05-05 adopted 2/14/05  
see ord # 00-06 adopted April 10, 2000

~~A. Land annexed to the City of Malvern shall remain unzoned for a period of 90 days during which period any owner may petition the City for appropriate zoning under provisions of the Annexation Ordinance. After the 90 day period has elapsed, remaining unzoned property shall be zoned R-2 (Residential) without further action.~~

~~B. Before official zone designation is made after annexation, all requests for building permits shall be referred to the City Planning Commission or a committee thereof. The Planning Commission or its designated committee may recommend issuance of the permit if said use conforms to the land use plan.~~

Art. 3-3: USES PERMITTED

A. Permits for Temporary Non-Conforming Uses.

Upon application to the City Clerk's office, permits may be issued for temporary uses such as the sale of produce in season; bazaars and carnivals; and construction offices. Permits so issued shall be subject to such limitations as the City Clerk's office may impose to protect the character of the district or districts affected.

Art. 3-4: COMPLETION OF EXISTING BUILDINGS

Nothing herein contained shall require any change in the plans construction, or designated use of a building actually under construction at the time of the adoption of this ordinance.

Art. 3-5: RELIEF FROM REQUIREMENTS FOR LOT AREA OR LOT WIDTH IN A RESIDENTIAL ZONE

On any lot separately owned in a residential zone at the time of passage of this ordinance and retained in continuous separate ownership, a single family structure may be erected even though the lot be of less width and/or area than required by the regulations of the residential zone in which the lot is located, provided all other area requirements are met.

Art. 3-6: AREAS NOT TO BE DIMINISHED

The lot or yard areas required by this ordinance for a particular building or use at the time of passage of this ordinance or later constructed or established shall not be diminished and shall not be included as a part of the required lot, open space, or yard area of any other building or use. If the lot, open space, or yard areas required by this ordinance for a particular building or use are diminished below requirements, the continued existence of such building or use shall be deemed a violation and punished as provided in this ordinance.

Art. 3-7: GROUP HOUSING PROJECTS

In the case of a housing project consisting of a group of 2 or more buildings to be constructed on a plot of ground of at least 2 acres not subdivided into the customary streets and lots, and which will not be so subdivided, where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to individual buildings in such housing project, the application of such requirements to such housing projects may be changed by the Board of Zoning Adjustment, in a manner that will be in harmony with the character of the neighborhood, will insure a density of land use no higher than the standard of open space as required by this ordinance in the district in which the proposed project is to be located. In no case shall a use or building height or density of population be permitted which is less than the requirement of the district in which the housing project is to be located.

## CHAPTER IV: CONDITIONAL USES

### Art. 4-1: CONDITIONAL USES

Several uses not normally permitted in a given zone may be permitted, with or without additional conditions, upon review and approval of the Planning Commission. Such uses have been specified in each zone. The petitioner must submit plot plans showing the proposed layout of such use, its effect on adjacent property, and the nature of activity contemplated shall also provide a petition signed by each property owner within 200 feet of his property. Such petition will indicate only that the affected property owners have been notified and not approved or disapproved. Notice may also be given to affected property owners by certified letter. The Commission must approve the use by a majority vote with a quorum present.

## CHAPTER V: USE AND AREA DISTRICTS

### Art. 5-1: RESIDENTIAL USE DISTRICT (R-1)

A. This district is intended to include the quiet residential neighborhoods characterized by single family homes on large lots, plus certain areas where similar residential development is likely to occur.

#### B. Uses Permitted

Property and buildings in a R-1, Single-family Residential Zone, shall be used only for the following purposes:

1. One single-family dwelling per lot.
2. Public park or playground.
3. Home occupation, as defined.
4. Transportation and utility easements, alleys, and rights-of-way.
5. Accessory buildings which are not a part of the main building, including one private garage; or accessory buildings which are a part of the main building, including one private garage.
6. A temporary bulletin board or sign, not exceeding 12 square feet in area and pertaining to the lease, hire, or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold.
7. Temporary building of the construction industry which is incidental to the erection of buildings permitted in this district, and which shall be removed when construction work is completed.
8. Parking lot provided to serve the uses permitted in this district.

#### C. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Municipal use, public building, and public utility.
2. Plant nursery in which no building or structure is maintained in connection therewith.

3. Golf course or country club.
4. Churches, but not including missions or revival tents or arbors.
5. Public school or school offering general education courses the same as ordinarily given in public schools and having no room regularly used for housing and sleeping.
6. A church bulletin board or sign, not exceeding 15 square feet in area, attached to the main building or located behind the front building line on the same lot with a church building.

B. Lot Area

1. One family dwelling: Minimum 8,000 square feet.
2. Churches: 25,000 square feet or 225 square feet times maximum seating capacity, whichever is greater.

C. Yard Requirements

All buildings shall be set back from street right-of-way lines or property lines to comply with the following yard requirements:

1. Front yard: 25 feet from property line or 50 feet from center line of existing right-of-way, whichever is greater.
2. Side yard: The main building shall be a minimum 10 feet from each property line, except that churches shall provide 50 feet from each property line. Unattached accessory buildings shall not be required to set back more than 3 feet from an interior side lot line when all parts of the accessory building are more than 90 feet from the front lot line.
3. Side yard street: Same as front yard.
4. Rear yard depth: The main building shall be a minimum of 25 feet from the property line or center of alley, where one exists, except that churches shall provide 50 feet from the property line when not abutting a street right-of-way. Otherwise, rear yard requirements for churches shall be the same as for the front yard.
5. Accessory buildings shall be set back a minimum of 5 feet from the property line.

D. Width

1. Minimum width of a lot at the front yard line or building line shall be 75 feet for one family dwelling.

E. Height Regulations

1. Maximum height shall be 2 ½ stories and not to exceed 35 feet.
2. Churches may be built higher than 35 feet upon review by the Planning Commission.

F. Structure Coverage

1. On any lot, the area occupied by structures, including accessory structures, shall not exceed 35 percent of the total area of each lot.

G. Off-Street Parking

1. 2 off-street parking spaces shall be provided for each single family residence. Other uses shall provide parking in conformance with the provisions of Chapter VI.

H. Sign Requirements

1. No sign or advertising displays are permitted except that one sign not exceeding 4 square feet in area may be erected to advertise the entire premises as being for sale or rent, and that a bulletin display not exceeding 10 square feet may be maintained in the front yard of a church.
2. The location of such signs shall be 10 feet from any street right-of-way.

Art. 5-2: MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)

This is a residential district to provide for medium and high population density. The principal use of land may range from single family to multiple family and garden apartment uses. Certain uses which are more compatible functionally with intensive residential uses than with commercial uses are permitted. The recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are permitted. Stability of the property value, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

#### A. Uses Permitted

Property and buildings in a R-2 General Residential District shall be used only for the following purposes:

1. One single-family dwelling per lot.
2. One 2-family dwelling per lot.
3. Multi-family dwellings not to exceed 4 units per lot.
4. Parks and playgrounds.
5. Public utilities such as water storage, power substations, fire stations, sewer lift stations, to include easements as appropriate to the district.
6. Manufactured Homes, provided that:
  - (a) All units are multi-sectional;
  - (b) All units are anchored in accordance with state guidelines or the manufacturer's instructions;
  - (c) All units are oriented in the same manner as other housing in the immediate area;
  - (d) All units have a continuous underpinning;
  - (e) All units have front steps with handrails; and
  - (f) All transportation elements, including tongues and axles, are removed.

#### C. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Any use permitted on review in a R-1 Single-family Dwelling District.
2. Medical office building.
3. Churches.

4. Schools offering a general education course.
5. Child care center, public or private.
6. Rooming or boarding houses.
7. Garage apartments.
8. Home occupation, as defined.
9. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

B. Lot Area

1. One family dwelling: Minimum 6,500 square feet.
2. Churches: Minimum 25,000 square feet or 225 square feet times maximum seating capacity, whichever is greater.

C. Yard Requirements

All buildings shall set back from street right-of-way lines or property lines to comply with the following yard requirements:

1. Front yard: 25 feet from property line or 50 feet from centerline of existing right-of-way, whichever is greater.
2. Side yard: The main building shall be a minimum of 7 ½ feet. Unattached accessory buildings shall not be required to set back more than 3 feet from an interior side lot line when all parts of the accessory building are more than 90 feet from the front lot line.
3. Side yard street: 15 feet from property line when lot is back to back with another lot. 20 feet in all other instances.
4. Rear yard: The main building shall be a minimum 20 feet from property line or center of the alley, where one exists. Garage apartments may be located in the rear yard of a single family dwelling, but shall not be closer than 10 feet to the rear lot line.
5. Accessory buildings shall be set back a minimum of 5 feet from rear property line.



#### D. Width

There shall be a minimum lot width of 60 feet at the front building line for single family dwellings and 20 feet additional width at the front building line for each family, more than one, occupying a dwelling.

Minimum lot width at the street shall not be less than 35 feet.

#### E. Height Regulations

1. When the height of a proposed structure would exceed 2 ½ stories or 35 feet, it shall be approved by the Planning Commission to insure a safe, healthful environment.
2. Churches may be built higher than 35 feet upon review by the Planning Commission.

#### F. Structure Coverage

On any lot, the area occupied by structures, including accessory structures, shall not exceed 40 percent of the total area of the lot.

#### G. Off-Street Parking.

See Chapter VI.

#### H. Sign Requirements.

1. No sign or advertising displays are permitted except that one sign not exceeding 4 square feet in area may be erected to advertise the entire premises as being for sale or rent, and that a bulletin display not exceeding 10 square feet may be maintained in the front yard of a church.
2. The location of such signs shall be at least 10 feet from any street right-of-way.
3. There shall be no advertising signs for home occupations other than one non-illuminated nameplate not more than 2 square feet in area attached to the main or accessory building.

#### Art. 5-3: RESIDENTIAL USE DISTRICT (R-3)

This district is intended to permit quiet residential neighborhoods of single, two family, and multiple-family homes with smaller lot requirements than R-2.

#### A. Permitted Uses

Property and buildings in a R-3 General Residential District shall be used only for the following purposes:

1. One-family dwellings.
2. 2-family dwellings.
3. Multi-family dwellings not exceeding 12 units per acre.
4. Manufactured homes, provided that:
  - (a) Units are anchored in accordance with state guidelines or manufacturer's instructions;
  - (b) All transportation elements, including tongues and axles, are removed;
  - (c) All units shall have a continuous underpinning; and
  - (d) All units shall have front steps with handrails.

#### B. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Article 4-1.

1. Multi-family dwellings exceeding 12 units per acre
2. Conditional uses permitted in the R-1 and R-2 zones.

#### C. Lot Area

1. One family: Minimum 6,000 square feet for first unit.
2. 2 family: Minimum 8,500 square feet.
3. Multi-family: 1,500 square feet of unobstructed open space for each dwelling unit.

#### D. Yard Requirements

All buildings shall be set back from street right-of-way lines or property lines to comply with the following yard requirements:

1. Front yard depth: 25 feet from property line or 50 feet from center line of existing right-of-way whichever is greater.
2. Side yard width: Minimum 7 ½ feet from each property line.
3. Yard on side street: 15 feet.
4. Rear yard: Minimum of 10 feet from property line.
5. Accessory buildings shall be set back a minimum of 5 feet from rear property line, and, when all parts of the building are more than 90 feet from the front lot lines, a minimum of 3 feet from interior side lot line.

#### E. Width

Minimum width of a lot at the front yard line or building line shall be 50 feet for one family dwellings and 70 feet for 2 family dwellings. For each additional unit over 2, an additional 10 feet shall be added to minimum width requirement for 2 family dwellings.

#### F. Height

1. When the maximum height of a structure exceeds 2 ½ stories, it shall be approved by the Planning Commission to insure a safe healthful environment.
2. Churches may be built higher than 35 feet upon review by the Planning Commission.

#### G. Dimensions

There are no dimension requirements for structures in an R-3 zone except as required by the Malvern Housing Code or other City ordinances.

#### H. Structure Coverage

On any lot, the area occupied by structures, including accessory structures, shall not exceed 40 percent of the total area of the lot.

#### I. Off-Street Parking

See Chapter VI.

## J. Places of Public Assembly

### 1. Height

(a) Maximum height shall be 2 stories and not to exceed 35 feet for that portion of the structure used for assembly or offices.

### 2. Yard Requirements

(a) Minimum of 25 feet from all property lines. On property abutting a street, 25 feet from property line or 50 feet from center of street, whichever is greater.

## Art. 5-4: MANUFACTURED HOME PARK (R-4)

This district is intended to provide for orderly developments in which manufactured housing units may be located. Such locations shall have necessary public utilities, community facilities, and other public services in order to provide a healthful living environment with the normal amenities associated with residential districts of the City.

### A. Design Standards

1. The park shall be located on a well-drained site properly graded to insure rapid drainage or freedom from stagnant pools of water.
2. Manufactured home spaces shall be provided consisting of a minimum of 4,000 square feet for each space which shall be at least 40 feet wide and clearly defined.
3. The minimum front yard setback shall be 20 feet to the front lot line of the mobile home park. Additionally, each manufactured home unit shall be set back at least 20 feet from all internal drives and access routes through the mobile home park.
4. The park shall be designed to accommodate a minimum of 5 manufactured homes.
5. Manufactured homes shall be so harbored on each space that there shall be at least a 20 foot clearance between the homes.
6. All manufactured home spaces shall abut a hard-surfaced driveway of not less than 20 feet in width, which shall have unobstructed access to a public street.
7. Internal streets and drives shall be designed for safe and convenient access to all manufactured home spaces. All such internal drives shall be privately owned, built,

and maintained. Such roadways shall be at least 20 feet in width and shall be constructed with a bituminous or concrete surface.

8. Each manufactured home space shall be provided with 2 off-street parking spaces each 9 feet by 20 feet in dimension. Parking areas shall be constructed according to the standards set forth in Chapter VI, Article 6-G.

9. Manufactured home parks must set aside open space as required by the Health Department of the State of Arkansas.

Art. 5-5: R-5 MANUFACTURED HOME DISTRICT

This district is intended to provide districts specifically designed for manufactured homes. The district will be similar to other residential districts in all aspects except that maximum lot sizes may be reduced.

A. Permitted Uses

1. One manufactured home per lot.
2. Public utilities such as water storage, power substations, and sewer lift stations.
3. Accessory structures and uses pertinent to the principal structure and use.

B. Conditional Uses

1. Churches

C. Bulk and area regulations

1. Minimum lot area: 5,000 square feet
2. Minimum lot width: 40 feet
3. Required yard setbacks: Same as R - 2 District
4. Maximum building height: Same as R - 2 District
5. Maximum structure coverage: Same as R - 2 District
6. Parking requirements: 2 hard surfaced spaces per lot
7. Sign requirements: Same as R - 2 District

Art. 5-6: CENTRAL BUSINESS DISTRICT (C-1)

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

A. Permitted Uses

1. Retail establishments providing goods and services such as clothing, furniture, groceries, drugs, hardware, variety stores and similar uses, and hotels, motor hotels, and restaurants.
2. Office (public or private) and bank buildings and uses.
3. Processing and manufacturing that by reason of operation are not a nuisance in respect to noise, odor, dust, vibration, etc.
4. Wholesaling and warehousing.
5. Bulk storage of noncombustible materials.
6. Automotive sales, service, repair, and storage.
7. Theaters, places of public assembly, and any public recreational uses.
8. Parking lots.
9. Garages and gasoline service stations subject to the following provisions:
  - (a) No repair work is performed out of doors.
  - (b) Pumps, lubricating or other devices are located at least 20 feet from any street right-of-way.
  - (c) All fuel, oil, or similar substances are stored at least 35 feet distance from any street or lot line.
  - (d) All automobile parts, dismantled vehicles, and similar articles are stored within a building.
10. Accessory structures and uses that are incidental to the permitted uses and that are not detrimental to the adjacent properties or the character of the district.
11. Churches (by Ord 2012, 9-13-99)

B. Lot Area

No requirement.

C. Yard Requirements

1. Front yard: None required, except as may be required by set-back ordinance or as otherwise stated herein.
2. Side yard: None required or as otherwise stated herein.
3. Rear yard: Minimum 20 feet from property line or center of alley where one exists.

D. Loading and Unloading

Loading and unloading facilities shall be provided so as not to block any public way. All maneuvering of vehicles in the process of loading or unloading shall be off any street right-of-way.

E. Structure Coverage

No requirements except as may be necessary to provide off-street parking space.

F. Screening Requirement

Where property zoned C-1 abuts a residential district, a planting screen or other visual barrier to be approved by the Board of Zoning Adjustment shall be constructed by the property owner or potential user of the property prior to the use of such property for other than residential purposes. The screen or barrier shall be constructed in such a manner that it provides a continual visual buffer between the 2 districts a minimum of 6 feet in height, except that such buffer shall not be placed within 15 feet of the paved surface of a street or highway.

Art. 5-7: HIGHWAY COMMERCIAL DISTRICT (C-2)

This district is usually located along highways or arterial streets, and is used for the retailing of durable goods, convenience goods, and providing services and lodging for transients. Uses in this district characteristically generate large volumes of automotive traffic.

A. Permitted Uses

Uses permitted in the C-2 Highway Commercial District shall consist of high volume retail and service outlets providing adequate off-street parking to accommodate customers. Uses permitted will be similar in nature and function to the following:

1. Amusement enterprises.
2. New and used automobile sales and service, new and used machinery sales and services, and public garages.
3. Advertising signs or structures.
4. Ambulance service, office or garage.
5. Auto glass or muffler shop.
6. Auto parts, sales with limited motor vehicle parts installation.
7. Auto repair garage.
8. Automobile service stations.
9. Bakery.
10. Boat sales.
11. Bowling alley.
10. Bus terminal.
11. Clothing store.
12. Department store.
13. Drive-in restaurant.
14. Eating place with drive-in service.
15. Electric transmission station.
16. Feed and fuel store.
17. Food store.
18. Frozen food locker.
19. Furniture repair and upholstery.



20. Funeral parlor.
21. Garden stores.
22. Golf course, miniature or practice range.
23. Heating and plumbing sales and service.
24. Home center.
25. Interior decorating store.
26. Ice plant.
27. Key shop.
28. Kennel.
29. Landscape center.
30. Laundry.
31. Lawn and garden center, open display.
32. Miniwarehouse.
33. Motel.
34. Music, radio, and television shop and repair
35. Novelty shop.
36. Nursing home or convalescent home.
37. Office warehouse.
38. Pet shop.
39. Plant nursery, wholesale and producer.
40. Printing shop or plant.
41. Public uses.

42. Recreation center.
  43. Research laboratories.
  44. Roller skating rink.
  45. Service station with limited motor vehicle repair
  46. Sign painting shop.
  47. Small engine repair.
  48. Sporting goods store.
  49. Swimming pool sales and supply.
  50. Stockbroker.
  51. Theater.
  52. Tool and equipment rental (with outside display).
  53. Upholstery shop.
  54. Veterinary hospital.
  55. Wholesale distributing center.
  56. Buildings, structures, and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.
  57. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not produce more noise, odor, dust, vibration, or traffic than those uses listed above.
  58. The bulk storage of liquefied petroleum gases.
  59. Other uses deemed similar in nature by the Planning Commission.
  60. Churches (by Ord 2012, 9-13-99)
- B. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Ambulance service post.
2. Amusement, commercial (outside).
3. Building material sales (open).
4. Bus station and terminal.
5. Car wash.
6. Lumberyard.

C. Lot Area

Minimum 10,000 square feet.

D. Yard Requirements

1. Front yard: Minimum of 50 feet from all street property lines if off-street parking is in front of the building. Front yard may be reduced to 25 feet if off-street parking is on the side or rear of the buildings.
2. Side yard: One foot of setback for each foot of building height when abutting more restrictive use areas.
3. Side yard on street: 25 feet.
4. Rear yard depth: 20 feet.

E. Width

Minimum width: 100 feet.

F. Height

Maximum height of a structure shall be 2 stories and not to exceed 35 feet.

G. Structure Coverage

On any lot, the area occupied by all structures shall not exceed 45 percent of the total area.

H. Off-Street Parking

Off-street parking shall be provided in accordance with Chapter VI. In all cases, the forwardmost 25 feet of the front yard shall be maintained as unobstructed open space and shall not be used for parking unless proper control is provided through curb line entrances and exits; and in no case will parking be permitted in a manner so as to result in an automobile backing into any street or otherwise interfering with moving traffic. Refer to Section 5-5 C for additional front yard requirements.

I. Loading and Unloading

Loading and unloading facilities shall be provided so as not to block any public way.

J. Screening Requirements

Where property zoned C-2 abuts - a residential district, a planting screen or other visual barrier to be approved by the Board of Zoning Adjustment shall be constructed by the property owner or potential user of the property prior to the use of such property for other than residential purposes in a manner that it provides a continual visual buffer between the 2 districts a minimum of 6 feet in height, except that such buffer shall not be placed within 15 feet of the paved surface of a street or highway.

Art. 5-8: NEIGHBORHOOD COMMERCIAL ZONING (C-3)

This district is intended to provide space for the retailing of convenience goods such as groceries, drugs, and other goods purchased primarily by members of nearby households. The district is usually located along or at an intersection of major or collector streets adjacent or near to residential areas. Uses within this district typically, cater to small service areas and should not include commercial establishments which would tend to attract substantial traffic not originating in the neighborhood. The district is intended also to exclude retail establishments selling large and heavy products which involve substantial trucking. Protection of adjacent residential areas should be a major factor in the establishment of these districts.

A. Permitted Uses

Property and buildings in the C-3 Neighborhood Commercial District shall be limited to uses similar in nature to the following:

1. Appliance Repair.
2. Bakery or confectionery shop.
3. Branch bank.