

TITLE 14

ZONING

Chapters:

- 14.04 Zoning Ordinance
- 14.08 Flood Damage Prevention Regulatory Code
- 14.12 Airport Zoning
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CHAPTER 14.04

ZONING ORDINANCE

Sections:

- 14.04.01 Adopted by reference
- 14.04.02 Zoning map

14.04.01 Adopted by reference The City Council of Heber Springs hereby approves and adopts by reference those revised Planning Regulations consisting of the text, zoning district map and subsequent amendments, and from the date on which the regulations shall take effect, the provisions thereof shall be controlling within the limits of the jurisdiction of the Planning Commission of the city of Heber Springs and not less than three (3) copies of such regulations shall be on file in the office of the City Clerk. (Ord. No. 90-1, Sec. 1.)

14.04.02 Zoning map A Zoning Map is hereby adopted by reference as the official Zoning Code of and for the city of Heber Springs, Arkansas, pursuant to A.C.A. 14-55-207, by which three (3) copies shall be filed with the Heber Springs City Clerk for public inspection.

The City Clerk is directed to maintain the official copy of the Zoning Map in the Heber Springs City Hall. Copies of the Zoning Code may be distributed to the public as a convenience, however, the code maintained by the Heber Springs City Clerk in City Hall shall be the one and only official Zoning Code consisting of a Technical Code and Zoning Map. (Ord. No. 2013-4, Secs. 1-2.)

CHAPTER 14.08

FLOOD DAMAGE PREVENTION REGULATORY CODE

Sections:

- 14.08.01 Adopted by reference
- 14.08.02 Penalty for violation

14.08.01 Adopted by reference There is hereby adopted by reference a Flood Damage Prevention Regulatory Code for Heber Springs, Arkansas, such Flood Damage Prevention Regulatory Code having been delegated by the legislature of the state of Arkansas and set forth in A.C.A. 14-268-101 through 14-268-105. A copy of the referenced regulatory code shall be filed in the office of the City Clerk and shall be available for inspection and copying by any person during normal office hours. The code shall include the following articles:

ARTICLE 1. Statutory authorization, findings of fact, purpose and methods

ARTICLE 2. Definitions

ARTICLE 3. General provisions

ARTICLE 4. Administration

ARTICLE 5. Provisions for flood hazard reduction (Ord. No. 2006-1, Sec. 1.)

14.08.02 Penalty for violation Any person or corporation who violates any measure adopted under this Code may be fined not more than One Hundred Dollars (\$100.00) for each offense. Each day during which such violation exists is a separate offense. (Ord. No. 93-2, Sec. 2)

CHAPTER 14.12

AIRPORT ZONING

Sections:

14.12.01	Short title
14.12.02	Definitions
14.12.03	Zones
14.12.04	Height limitations
14.12.05	Use restrictions
14.12.06	Non-conforming uses
14.12.07	Permits
14.12.08	Enforcement
14.12.09	Appeals
14.12.10	Judicial review

14.12.01 Short title This ordinance shall be known and may be cited as "Heber Springs Municipal Airport Zoning Ordinance." (Ord. No. 305, Sec. 1)

14.12.02 Definitions As used in this ordinance unless the text otherwise requires:

Airport - Heber Springs Municipal Airport.

Airport elevation - the established elevation of the highest point on the usable landing area.

Airport hazard - any structure, tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

Airport reference point - that point established as the approximate geographic center of the airport landing area and so designated.

Board of Adjustment - a board comprised of the same members constituting the Planning and Zoning Commission of Cleburne County - Heber Springs Planning and Zoning Commission.

Height - for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall mean sea level elevation unless otherwise specified.

Landing area - the area of the airport used for the landing, take-off or taxiing of aircraft.

building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones VI-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing Construction - means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal water.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood hazard Boundary Map (FHBM) - means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A. M. and/or E.

Floodplain or Flood-Prone Area - means any land area susceptible to being inundated by water from any source (see definition of flooding).

Flood Protection System - means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Levee - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System - means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in

an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured Home - means a structure transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plains management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers travel trailers and other similar vehicles.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New Construction - means, for flood plain management purposes, structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

Start of Construction - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Improvement - means any repair, reconstruction or improvement of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been

damaged and is being restored, before the damage occurred. for the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of History Places.

Variance - is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations.)

Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas. (Ord. No. 486, Art 2)

14.08.03 General provisions.

A. Lands To Which This Ordinance Applies. This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Heber Springs, Arkansas.

B. Basis For Establishing The Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency on its Flood Hazard Boundary Map (FHBM), Community No. 050240, dated January 24, 1975, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

C. Establishment of Development Permit. A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

D. Compliance. No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation. In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

G. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Heber Springs, Arkansas, or any officer or employee thereof for any flood damage that result from reliance on this ordinance or any administrative decision lawfully made thereunder. (Ord. No. 486, Art. 3)

14.08.04 Administration.

A. Designation of the Flood Plain Administrator. The City Building Inspector is hereby appointed to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to flood plain management.

B. Duties and Responsibilities of the Flood Plain Administrator. Duties and responsibilities of the Flood Plain Administrator shall include, but not be limited to the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

(2) Review permit application to determine whether proposed building site will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Arkansas Soil and Water Commission, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source in order to administer the provisions of Article 5.

C. Permit Procedures.

(1) Application for a Development Permit shall be presented to the Flood Plain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevations of proposed landscapes, alterations, existing and proposed structures and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 14.08.05(B) (2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(e) Maintain a record of all such information in accordance with Article 4, Section (8) (1).

(2) Approval or denial of a Development Permit by the Flood Plain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electric, and water systems;

(g) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(j) The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedure.

(1) The Appeal Board, as established by Heber Springs, Arkansas, shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Flood Plain Administrator in the enforcement or administration of this ordinance.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(4) The Flood Plain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 14.08.04 (C) (2) of this Article have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Section 14.08.01 (c)).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(b) Variances shall only be issued upon
(i) a showing of good and sufficient cause
(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant and (iii) and a determination that the granting of a variance will not result in increased flood heights,

additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;

(c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(10) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D(1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. No. 486, Art. 4)

14.08.05 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 14.08.03 (B), (ii) Section 14.08.04 (B)(8) or (iii) Section 14.08.05 (C)(4), the following provisions are required:

(1) Residential Construction - New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Flood Plain Administrator that the standard of this subsection, as proposed in Section 14.08.04 (C)(1)(a), is satisfied.

(2) Nonresidential Construction - New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Flood Plain Administrator.

(3) Manufactured Homes.

a. Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with Article 5, Section B (1).

C. Standards for Subdivision Proposals.

(1) All subdivision proposals, including manufactured home parks and subdivisions shall be consistent with Section 14.08.01 (B), (C) and (D) of this ordinance.

(2) All proposals for the development of subdivisions, including manufactured home parks and subdivisions shall meet Development Permit requirements of Section 14.08.03 (C) (4) (c) and the provisions of Section 14.08.05 of this ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions which is greater than the fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Section 14.08.03 (B) or Section 14.08.04 (B) (8) of this ordinance.

(4) All subdivision proposals, including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals, including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. No. 351, Art. 5)

Non-conforming use - any structure, tree or use of land which is lawfully in existence at the time the regulation is prescribed in the ordinance or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

Non-instrument runway - a runway other than an instrument runway.

Person - an individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

Runway - the paved surface of an airport landing strip.

Structure - an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines. (Ord. No. 305, Sec. 2)

14.12.03 Zones In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying within the non-instrument approach zones, transition zones, horizontal zones and conical zone. Such areas and zones are shown on the Heber Springs Airport Zoning Map, consisting of one (1) sheet, prepared by Roy R. Rosin, engineer which is attached to this ordinance and made a part hereof. The various zones are hereby established and defined as follows:

- A. Non-instrument approach zone A non-instrument approach zone is established at each end of all non-instrument runways on the Heber Springs Municipal Airport for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of four hundred (400) feet at a distance of two hundred (200) feet beyond each end of the runway, widening thereafter uniformly to a width of two thousand four hundred (2,400) feet at a distance of ten thousand two hundred (10,200) feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.
- B. Transition zones Transition Zones are hereby established adjacent to each non-instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways, have variable width as shown on the zoning map. Transition zones extend outward from a line two hundred (200) feet on either side of the centerline of the non-instrument runway, for the length of such runway plus two hundred (200) feet on each end, and are parallel and level with such runway centerlines. The transition zones along such runway slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to non-instrument approach zones for the entire length of the approach zone. These transition zones have

variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surface of the horizontal and conical zones.

- C. Horizontal zones A horizontal zone is hereby established as the area within a circle with its center at the airport reference point and having a radius of seven thousand (7,000) feet. The horizontal zone does not include the non-instrument approach zones and the transition zones.
- D. Conical zones A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of five thousand (5,000) feet. The conical zone does not include the transition zones. (Ord. No. 305, Sec. 3)

14.12.04 Height limitations Except as otherwise provided in this ordinance, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this ordinance to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

- A. Non-instrument approach zones One (1) foot in height for each forty (40) feet in horizontal distance beginning at a point two hundred (200) feet from and at the elevation of the end of the non-instrument runway and extending to a point ten thousand two hundred (10,200) feet from the end of the runway.
- B. Transition zones One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point two hundred (200) feet normal to and at the elevation of the centerline of non-instrument runways extending two hundred (200) feet beyond each end thereof, extending to a height of one hundred fifty (150) feet above the airport elevation which is six hundred twenty-eight point zero (628.0) feet above mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces.
- C. Horizontal zone One hundred fifty (150) feet above the airport elevation or a height of seven hundred seventy-eight point zero (778.0) feet above mean sea level, and
- D. Conical zone One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of four hundred point zero (400.0) feet above the airport elevation.

Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

Nothing in this ordinance shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to forty-five (45) feet above the surface of the land. (Ord. No. 305, Sec. 4)

14.12.05 Use restrictions Notwithstanding any other provisions of this ordinance, no use may be made of land within any zone established by this ordinance in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking-off or maneuvering of aircraft. (Ord. No. 305, Sec. 5)

14.12.06 Non-conforming uses

- A. Regulations not retroactive The regulations prescribed by this ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.
- B. Marking and lighting Notwithstanding the preceding provision of this section, the owner of any non-conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Heber Springs Airport Commission to indicate to the operators of the aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the Heber Springs Airport Commission. (Ord. No. 305, Sec. 6)

14.12.07 Permits

- A. Future uses Except as specifically provided in paragraphs (a), (b) and (c) hereunder, no material changes shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

no permit shall be granted for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.

2. In the areas lying within the limits of the non-instrument approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runways, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such non-instrument approach zone.
3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground except when such trees or structures, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this ordinance except as set forth in Section 14.12.04.

- B. Existing use No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher or become a greater hazard to air navigation, than it was on the effective date of this ordinance or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted-
- C. Non-conforming uses abandoned or destroyed Whenever the City Building Inspector determines that a non-conforming structure or tree has been abandoned or more than fifty (50%) torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- D. Variances Any person desiring to erect or increase the height of any structure or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this ordinance, may apply to the Heber Springs Planning and Zoning Commission for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this ordinance.

- E. Hazard marking and lighting Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Heber Springs Airport Commission, at its own expense,, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. (Ord. No. 305, Sec. 7)

14.12.08 Enforcemen. It shall be the duty of the City Building Inspector to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City Building Inspector upon a form furnished by him. Applications required by this ordinance to be submitted to the Heber Springs Planning and Zoning Commission shall be promptly considered and granted or denied by them. (Ord. No. 305, Sec. 8)

14.12.09 Appeals

- A. Any person aggrieved or any taxpayer affected by any decision of the City Building Inspector made in his administration, if of the opinion that a decision of the City Building Inspector is an improper application of these regulations, may appeal to the Heber Springs Planning and Zoning Commission.
- B. All appeals hereunder shall be pursuant to the rules of the Heber Springs Planning and Zoning Commission. (Ord. No. 305, Sec. 9)

14.12.10 Judicial review Any person aggrieved or any taxpayer affected by any decision of the Heber Springs Planning and Zoning Commission may appeal to the Circuit Court of the county within which the structure or object of natural growth in questions is located. (Ord. No. 305, Sec. 10)

CHAPTER 14.16

AIRPORT MASTER PLAN

Sections:

14.16.01 Adopted

14.16.01 Adopted The city of Heber Springs hereby approves and adopts by reference, the Heber Springs Municipal Airport Master Plan dated June, 1983, and any subsequent amendments, after public hearing, duly held thereon, following notice of such hearing as required by law, said master plan consisting of the text of which not less than three (3) copies have been, and now are filed in the office of the City Clerk and from the date on which the master plan shall take effect, the provisions thereof shall be controlling, subject to amendment and revision as approved by the City Council, with in the limits of the jurisdiction of the Airport Commission of the city of Heber Springs. (Ord. No. 444)

CHAPTER 14.20

LANDOWNER TO BEAR COST

Sections:

14.20.01 City services and benefits

14.20.01 City services and benefits All city services and benefits shall immediately be made available to said lands, provided, however, that should there be any appeal or referendum to the annexation ordinance, the property owners shall bear all costs of the termination of said services until the appeal or referendum is resolved. (Ord. No. 02-2, Sec. 1.)

CHAPTER 14.24

AMENDMENTS TO ZONING ORDINANCE

Sections:

14.24.01 Chapter II
14.24.02 Chapter VI
14.24.03 Chapter VII
14.24.04 Conditional re-zoning

14.24.01 Chapter II Section 1, Definitions, Paragraph A, Subparagraph 56 is hereby amended to read as follows:

56. **Manufactured home** means a single family home meeting the design standards set forth in Fed. Title 24, part 3280, 3282 and 42 USC 5401, manufactured after January 01, 1976, and is not to be construed as a mobile home. The following minimum site standards shall apply to all instances of placement of a manufactured home in the R-3 zone District.

- A. All units constructed in or set up in this district, whether by new construction, addition to an existing unit, placement of a multi-section manufactured or modular home in combination with additional construction, shall meet the minimum set back requirements for a single family dwelling within this zoning district and have a minimum dimension on each side of at least 20 feet.

- B. All units constructed in or set up in this district, shall have all transport elements (wheels, axles, hitches) and exterior light systems removed and the unit placed on a permanent foundation system constructed to meet the adopted City Building Codes and in the case of a manufactured home, be anchored in accordance with the manufacture's instructions or the regulations of the Arkansas Manufactured Home Commission.
- C. All units constructed in or set up in this district with a crawl space shall have continuous masonry underpinning with permanent materials unless specifically approved by the Planning and Zoning Commission.
- D. All units constructed in or set up in this district with shall have the front door orientated toward the front yard and the exterior wall finished so as to be compatible with the neighborhood.
- E. All units constructed in or set up in this district with shall have shingle roofs unless specifically approved by the Planning and Zoning Commission.
- F. All units constructed in or set up in this district that do not have a built-in porch as part of the structure, shall have a covered front landing accessible by stairs and handrail if necessary. The landing shall be at least six feet by six feet, and shall be orientated to the front yard.
- G. All units moved into this district from off-site shall be new and under warranty or inspected by the City's Building Inspector prior to being moved on-site to ensure compliance with the following standards and that it is constructed in accordance with the Housing and Urban Development (HUD) Code.
 - 1. All roofing material shall be secure without gaps or damaged shingles.
 - 2. All windows shall be operative without broken panes or damaged trim or screening.
 - 3. All exterior siding shall be in place and undamaged. No dented, torn, burned, loose or mildewed siding shall be allowed.
 - 4. All kitchen and bathroom facilities shall be fully operational and all mechanical equipment shall be in good working order.
 - 5. Any attached gutters shall be secure and functional.
 - 6. All cornice materials shall be in place and undamaged.
 - 7. Exterior finish shall be uniform and unblemished.
 - 8. Doors shall be plum and fully operational. No damaged screening or door fixtures shall be allowed.
 - 9. All flooring, or flooring that is missing, dented, broken or in a state of damage or decay will not be allowed. (Ord. No. 04-5, Sec. 1.)

Chapter VI, Zoning Districts, Paragraph U. Accessory Structures, is hereby amended to read as follows: Accessory structures located in zones R-1 shall be located a minimum of five (5) feet from all property lines, and shall not be placed or built in the front yard. (Ord. No. 99-18, Sec. 1.)

Chapter VI, Zoning Districts, Section 2, Residential Zone R-2, Paragraph H, on Lot Parking, is hereby amended to read as follows: Single-family and two-family residential uses shall provide a minimum of two (2) on-lot parking spaces for each family unit structure. (Ord. No. 04-5, Sec. 2.)

Chapter VI, Zoning Districts, Section 3, Residential zone R-3, Paragraph B Permitted Uses is hereby amended to read as follows:

- A. All uses permitted in residential R-1 and R-2 districts.
- B. Multi-family structures (up to 12 units per gross acre).
- C. Boarding and rooming houses.
- D. Manufactured homes as defined in Act 634 of 2003 (A.C.A. 14 54-1602) and A.C.A. 20-25-102. (Ord. No. 04-5, Sec. 3.)

Chapter VI, Zoning Districts, Section 3, Residential Zone R-3, Paragraph H, On-Lot Parking is hereby amended to read as follows: Single-family, two-family an multi-family structures: Two (2) on-lot parking spaces for each single-family unit in a structure and one (1) and one-half (1.5) spaces per unit for multi-family structures. Rooming and elderly housing shall have a requirement of one-half (0.5) spaces per unit. (Ord. No. 04-5, Sec. 3.)

Chapter VI, Zoning Districts, Section 4, Mobile Home Park or Mobile Home Subdivision, Zone R-4 is hereby amended to read as follows:

- A. **Description of District** This district is created for the purpose of providing appropriate sites for mobile/manufactured home subdivisions. It is the intent of the ordinance that this district shall be located so as to not adversely affect the established residential developments and densities of the city.
- B. **Area Requirements** The mobile/manufactured homes subdivision shall conform to the following requirements:
 - 1. The park or subdivision shall be located on a well-drained site, properly graded to insure rapid drainage, free from standing pools of water with adequate management of the resulting downstream runoff.
 - 2. The minimum area for a mobile home park or manufactured home subdivision shall be five acres.

3. Unit spaces shall be provided consisting of a minimum of five thousand (5,000) square feet for each space which shall be at least fifty (50) feet wide and clearly defined on the ground.
4. Homes shall be so harbored on each space that there shall be at least ten (10) feet between the home and any home space line.
5. All spaces shall abut on a hard surface driveway of not less than twenty (20) feet in width which shall have unobstructed access to a public street.
6. Each space shall be provided water, sewer and electrical service approved by the Arkansas State Public Health Service.
7. All homes in a part or subdivision shall have a skirt completely encircling the home.
8. Each commercial mobile home park or manufactured subdivision shall meet such other requirements as the Planning and Zoning Commission may establish.
9. Two (2) hard surface parking spaces to accommodate motor vehicles shall be provided on each home space.
10. Common recreational space shall be provided at a rate of two hundred (200) square feet per home space.
11. A mobile home park or manufactured subdivision which is to be placed in subdivision must be placed upon poured concrete or masonry footing and piers or perimeter foundation constructed to meet the adopted Heber Springs Building Code. Be anchored in accordance with the manufacture's instructions or the regulations of the Arkansas Manufactured Home commission. All transport elements such as wheels, axles, trailer or transport hitches and exterior light systems must be removed.
12. Adequate landscaping and screening shall be provided including trees and shrubs both in and around the perimeter of the park or subdivision, acceptable to the Planning Commission.

C. **Mobile homes** No mobile home may be located inside the city limits of Heber Springs except in a mobile home park or subdivision.

- D. **Accessory structures** The only accessory structure permitted in Zone R-4 shall be a storage building of a maximum size of one hundred square feet. Placement must meet yard area requirements set forth in B(4) of this chapter. (Ord. No. 04-5, Sec. 4.)

14.24.03 Chapter VII **Chapter VII, General Regulations, Section 5, Storm Cellars**, is hereby amended to read as follows: All Storm Cellars in residential areas must be placed in the rear yard behind the back side of the dwelling. A permit must be obtained from the Code Enforcement Officer, who must approve its location. (Ord. No. 99-18, Sec. 2.)

Chapter VII, **General Regulations**, is hereby amended to add the following as Section 12, Satellite Dishes: All Satellite Dishes, regardless of size, in residential areas must be placed in the rear yard, behind the back side of the dwelling. A permit must be obtained from the Code Enforcement Officer, who must approve its location. (Ord. No. 99-18, Sec. 3.)

Chapter VII, **General Regulations**, is hereby amended to add the following as Section 13, Fences-Residential:

- A. A fence is allowed beginning at the front of the dwelling, then across the side yard to the side property line, then along the side property line to the back property line, then across the back property line to the other side property line, then along the side property line to a point even with the front side of the dwelling, then across the side yard to the front of the dwelling. No fence may exceed six (6) feet in height except with Planning and Zoning commission approval.
- B. No fence is allowed in the front yard, or forward of the front of any dwelling on adjacent property regardless of the size of the adjacent lot. See Figure #8, Chapter XIII, Appendix, List of Illustrations for drawing.(Ord. No. 99-18, Sec. 4.)

Chapter VII, **General Regulations**, is hereby amended to add the following as Section 14, Fences -Commercial: commercial fences must receive a conditional use permit. (Ord. No. 99-18, Sec. 5.)

14.24.04 Conditional re-zoning That Ord. No. 90-1 and the Zoning Map of the city of Heber Springs, Arkansas, be and it hereby is amended to show that the above described real property is reclassified from Residential Zone R-1 to commercial zone C-2 for the consideration and upon the conditions herein set out and approved.

A. Lots 1 and 2: all allowed uses in commercial zone C-2

B. Lots 3 and 4: Permitted uses are:

1. Clinic (medical, dental or optical)
2. Pharmacy or drug store
3. Florist shop
4. Office (general or professional)

Conditional Use is: Residential (single and multi-family) Lots 5, 6, and 7
Permitted Use is: Residential (single or multi-family)

C. For purposes of this ordinance, such rezoning is strictly conditioned upon compliance with development only in accordance with said site development plan as set forth and approved herein. The Code Enforcement Officer is directed to issue necessary building permit(s) only upon plans presented that are in accordance with the site development plan and this ordinance. (Ord. No.2000-3, Sec. 1-3.)

CHAPTER 14.28

PLANNED UNIT DEVELOPMENT

Sections:

- | | |
|----------|-------------------------------------|
| 14.28.01 | General description |
| 14.28.02 | Standards of development |
| 14.28.03 | Procedures for obtaining PUD Zoning |
| 14.28.04 | Amendments |
| 14.28.05 | Administration and enforcement |

14.28.01 General description It is the intent of this section to encourage developments 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 city of Heber Springs, Arkansas. The "PUD" Planned Unit Development District herein established is 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:

- A. A maximum choice in the types of environment and living units available to the public;
- B. Open space and recreation areas;
- C. A pattern or development which preserves natural features and prevents soil erosion;
- D. A creative approach to the use of land and related physical development;
- E. An efficient use of land resulting in smaller networks of utilities and streets and thereby lowering cost; and
- F. An environment of stable character in harmony with the surrounding development. The "PUD" Planned Unit Development Regulations are designed to provide for small and large-scale developments incorporating a single type or a variety of residential, commercial, and related uses which 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 must be an essential and major element of the Plan which 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 harmony with surrounding development. (Ord. No. 04-22, Sec. 1.)

14.28.02 Standards of development

- A. **Ownership control** The land in a Planned Unit Development District shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, trust, property owners association, or architectural control committee, provided assurances are given through the procedures contained herein that the project can be successfully completed. (Ord. No. 2020-05, Sec. 1)
- B. **Minimum district area** The minimum area for a "PUD" Planned Unit Development District shall be five (5) acres.
- C. **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 which are permitted within the boundaries of a Planned Unit Development. The applicant shall be responsible for preparation of a list of permitted uses within the specific Planned Unit Development requested. The development of the list shall take into account the nature and purpose of the Planned Unit Development 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. Following approval by the Planning Commission and City 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 applicant in accordance with the restrictions included herein and said uses are designated as special permit uses. These uses more intensely dominate the area in which they are located than do other uses which might be permitted in the PUD District and, as such, they require special considerations and restrictions. If the applicant and/or Planning Commission agree that certain special permit 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 or City Council to properly and comprehensively evaluate the nature and impact of such special permit uses. When such special permit 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. (Ord. No. 2020-05, Sec. 2)

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. Following approval by the Planning Commission and City 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 special permit uses. These uses more intensely dominate the area in which they are located than do other uses which 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 special permit 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 of City Council to properly and comprehensively evaluate the nature and impact of such special permit uses. When such special permit 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.

- D. **Parking and off-street loading** All uses established within a Planned Unit Development District shall comply with the off-street parking and loading requirements as established in the Zoning Ordinances. 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 for 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 city.

- E. **Perimeter requirements** In order to assure compatibility with surrounding development, the applicant 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 setback requirements

are herein established, the Planning Commission and City Council shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties. (Ord. No. 2020-05, Sec. 3)

- F. **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:

1. Six (6) dwelling units per net residential acre for single-family attached and detached houses and two-family dwellings.
2. Twelve (12) dwelling units per net residential acre for triplexes, fourplexes, and row or terrace housing.
3. Eighteen (18) dwelling units per net residential acre for low-rise (three (3) stories or less) apartments.
4. Twenty-four (24) dwelling units per net residential acre for high-rise (four (4) 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-way, 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 Owner' 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 (1) 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.

- G. **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 that are intended to be served by the common open space. Adequate guarantees must be provided that the common open space areas as

contained in the Plan for the PUD District are preserved and maintained for those purposes only. A minimum of 20% of the total a project are shall be devoted to lawn and/or green space exclusive of paved surface. 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. Nothing in this section of the code shall be construed as assigning or assuming any responsibility or liability on the part of the city of Heber Springs, for maintenance of any private open areas, parks, or recreational facilities. A hold harmless clause shall be incorporated in the covenants running with the land to this effect. However, when an owner of a Planned Unit Development desires to dedicate certain land areas to the city for public parks and recreational facilities and the City Council approves the nature and location of such lands and accepts the dedicated areas, they shall be responsible for the operation and maintenance of these lands and properties.

14.28.03 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 local government of the applicant's intention with respect to the nature and scope of the proposed PUD District and to allow the applicant to be informed of the city's regulations and policies concerning development alternatives for the area. The second step involves assessment of fees, 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 Heber Springs Subdivision Regulations. The last step involves submission of the final development plan and plat for approval and recording. These steps are outlined as follows with respect to the procedure followed and submission requirements at each step. (Ord. No. 2020-05, Sec. 4)

A. Pre-Application Plan and conference

1. Procedure

- a. A Pre-application Plan shall be submitted to the Heber Springs Planning Commission 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 city.

- b. Each applicant shall confer with the Planning Commission and other interested department heads in connection with the preparation of the Planned Unit Development Application. It shall be the responsibility of the Planning Commission chairman to contract 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.
 - c. Upon review of the site plan and general area, and following completion of the Pre-Application Conference, the Planning Commission 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.
2. 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 city's initial review and evaluation of the potential of the Planned Unit Development District proposed. The Pre-Application Plan shall include the following:
- a. Boundaries of the property involved including but not limited to open space and any existing or parts of an existing platted subdivision; (Ord. No. 2020-05, Sec. 5)
 - b. Existing zoning of the area and zoning of adjoining properties;
 - c. Existing roadways, easements, waterways, and identify any FEMA flood plain and flood way property within the one year flood elevation;
 - d. Indication of availability of all utilities;
 - e. General plan of development at a level of detail sufficient to indicate to the city 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 non-residential elements, proposed locations of major open space areas, circulation and access.

- B. **Fees, 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 the appropriate fees, a simultaneous submission of six (6) sets of the preliminary plat and a rezoning application. The preliminary plat shall conform to all requirements contained in the Heber Springs Subdivision Regulations with the exception of certain design requirements regarding lot, setbacks, etc. that are specifically exempted or modified by provisions of this ordinance. The application shall be processed following the procedure for a change of zone district boundary as contained the Zoning Ordinance.

1. Submission requirements

A fee of \$300.00 + \$5.00 per lot must be paid for preliminary plat review prior to submitting the preliminary plat to the Planning Commission for approval.

A fee of \$75.00 must be paid for the rezoning application + the cost for the publication of the "Notice of Public Hearing" required to be published in a newspaper of general circulation in the city.

The applicant shall simultaneously submit both a preliminary plats and a rezoning application. The preliminary plat shall be prepared in a manner as prescribed in the Heber Springs Subdivision Regulations.

To form the basis for the rezoning application a preliminary site plan shall be submitted and it shall include at least the following information:

- a. Proposed title of the project and name of any engineer, architect, land planner, landscape architect or company responsible for various elements of the Plan.
- b. North point, graphic scale, and date.

- c. Certified boundaries of the properties involved, all existing easements, section lines and property lines, existing streets, existing buildings, water courses, waterways and lakes, and other existing physical features in and adjoining the project.
- d. Location and sizes of sanitary and storm sewers, water mains, culverts and other underground utilities/structures in and adjacent to the project. All drainage shall be so designed to serve the entire drainage area and all surface drainage shall be transported to an existing storm sewer or drainage facilities as approved by the Planning Commission.
- e. Topography of the project area with two (2) foot contour intervals.
- f. 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 non-residential 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 non-residential 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 that 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 which includes the exact boundaries and locations of all structures proposed for construction.
- g. All building setback lines for all properties shall be shown.
- h. Curbs and gutters shall be require for all streets unless otherwise specified by the Planning Commission.

246. 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.
- j. Calculations shall be submitted of the total number of gross acres in the project, and the acres and percentages thereof, proposed to be devoted to the several dwelling types, commercial uses, other non-residential uses, streets, parks, schools, and other reservations.
 - k. 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, or if the project is to be developed in phases, by each phase 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.
- C. **Final Plan and Plat** Upon the approval of the rezoning request by the City Council, the applicant may proceed with the preparation of the final plan and plat. The final plat shall meet all applicable requirements of the Heber Springs 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 plat 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 Heber Springs 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 County Recorder's office upon completion of the above information. (Ord. No. 04-22, Sec. 3.)
- D. **Developed Property and Fee Waiver** Should the proposed PUD District as described in the application for rezoning contain or consist of developed or partially developed property previously reviewed and approved by the Heber Springs Planning Commission, which approval being evidenced by the filing of a plat containing a Certificate of Approval signed by an authorized representative of the Planning Commission in the office of the Circuit Clerk and Ex-Officio Recorder for Cleburne County, Arkansas, then the Planning Commission may, but shall not be required, waive:
- (1) Any application review procedure requirements contained herein which are substantially similar to or consistent with the application requirements of the previously approved and recorded plat.

- (2) All or any portion of the preliminary plat review fees. (Ord. No. 2020-05, Sec. 6)

14.28.04 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:

- A. **Amendments to the 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 by the staff to be minor plan changes if any and all modifications by the applicant of the plan do not:
1. Vary the total number of dwelling units by more than five percent (5%);
 2. Involve a reduction of the area set aside for common open space nor the substantial relocation of such area or areas;
 3. Increase by more than five percent (5%) the total floor area proposed for any non-residential use; and
 4. Does not substantially change the location of any non-residential 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, 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.

- B. **Amendment to Final Development Plan** The final development plan as submitted and approved may be amended in accordance with the following procedure. Minor changes may be authorized by the Building Official in such cases where changes are required by engineering or other circumstances not foreseen at the time the final development program was approved. NO change authorized by the Building Official under this section, however, may either increase the total area devoted to any and all non-residential 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 Building Official may not permit changes beyond the minimum or maximum requirements set forth in this ordinance. All other changes in the Planned Unit, 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. (Ord. No. 04-22, Sec. 4.)

14.28.05 Administration and enforcement

- A. **Review standards** The Planning Commission shall investigate and ascertain that the plans for a Planned Unit Development meet the following conditions:
1. That the tract of land for the entire project comprises not less than five (5) acres.
 2. 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.
 3. 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.
 4. That the property adjacent to the proposed development will not be adversely affected.
 5. The City Council shall review the recommendations sent forward by the Planning Commission and take one of the following actions:
 - a. Approve the Planned Unit Development as recommended by the Planning Commission and approve the rezoning request.
 - b. Approve the Planned Unit Development as amended by the City Council and approve the rezoning request.
 - c. Deny the rezoning request.
 6. The City Council shall apply the review standards stipulated in this section in reviewing the Planned Unit Development.

- B. **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 has been submitted in accordance with this ordinance.
- C. **Phasing and development schedule** The applicant is permitted to construct the Planned Unit Development in more than one phase or stage of construction. In such cases, 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 non-residential construction within the project. Upon adoption of the schedule of construction, the Building Official shall be responsible for enforcing this schedule. If the Building Official determines that the rate of construction of residential units or non-residential structures differs from the construction schedule, he/she shall so notify the developer in writing. Thereafter, the Building Official 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 non-residential structures until compliance is achieved.

- D. **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.
- E. **Causes for revocation** The Planning Commission may recommend to the City Council that any previous Planned Unit Development approval be revoked and all building permits be voided under the following circumstances:
1. If the applicant has not submitted a final development plan to the city within one (1) year of preliminary plan approval. Where an optional staged 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 plan/plat has not been submitted and approved.

2. If no building permit has been issued within two (2) years from the recording date of the final development plan/plat, or initial plan of a staged final development plan/plat and the applicant has not been granted an extension.
3. If the applicant does not adhere to the phased development schedule as stated in the approved preliminary development plan.
4. If the construction and provisions of all common open spaces and public and recreational facilities which are shown on the final development plan/plat are proceeding at a substantially slower rate than other 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 plan/plats if preceding phases have not been finalized. The city may also issue a stop work order of discontinue issuance of building permits, or revoke those previously issued. If project is revoked, it would revert to previously determined zoning district. (Ord. No. 2004-22, Sec. 5.)

CHAPTER 14.32

REZONING, ANNEXING, VACATING PROPERTY

Sections:

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| 14.32.01 | Annexing |
| 14.32.02 | Vacating |
| 14.32.03 | Rezoning |

14.32.01 Annexing

- | | |
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| Ord. No. 98-1 | Part of E ½ of NW 1/4, Sec 13, Twp 10 N, Range 10 West |
| Ord. No. 99-14 | Part of SW 1/4 of Fractional Sec 18, Twp 10 N, Range 9 West |
| Ord. No. 99-24 | SW 1/4 of Sec 12, Twp 10 N, Range 10 West |

Ord. No. 2000-4	Part of SW ¼ of Sec. 18, Twp 10 N, Range 9 West
Ord. No. 2001-2	Part of N ½ of Sec. 1, Twp 10 N, Range 10 West
Ord. No. 2002-1	SW ¼ of Sec. 23, Twp 10 N, Range 10 West
Ord. No. 2004-1	Part of Secs. 7 & 18, Twp 10 N, Range 9 West
Ord. No. 2006-9	NW ¼ of Sec. 19, Twp 10 N, Range 9 West
Ord. No. 2006-27	Part of Sec. 12 & 13, Twp 10 N, Range 10 West
Ord. No. 2007-13	SW ¼ of Sec. 16, Twp 10 N, Range 10 West

14.32.02 Vacating property

Ord. No. 94-11	Sequoia Cr. from NE Lot 20 to SE Lot 46
Ord. No. 95-5	Part of alley by Lot 1 of Block 35 of Original Town of Heber Springs
Ord. No. 96-2	Part of W ½ of Section 14, T-10-N, R-10-W, Cleburne County
Ord. No. 96-11	Lots 7 thru 12, Block 8, Depot Add., Lots I & 12, Block 9, Depot Add.
Ord. No. 97-9	Oak St. between Ninth St. and Tenth
Ord. No. 98-6	Part of alley on Block 111, North Addition
Ord. No. 99-6	Part of Second St in Block 33
Ord. No. 99-7	Part of SW 1/4 of Sec 14, Twp 10 N, Range 10 West
Ord. No. 99-13	South 20 feet of Sugarloaf
Ord. No. 99-16	Part of alley of Block 33
Ord. No. 2001-7	Alley at NE corner of Lot we, Block 5, Kings Addition
Ord. No. 2003-10	Alley in Block 39 of Railroad Addition
Ord. No. 2004-8	Alley in Block 19 of Slaton and Vinson Addition
Ord. No. 2004-15	Alley in Block 37 of Railroad Addition
Ord. No. 2005-11	Half arc cul-de-sac for Lot 10, Shady Grove Subdivision

14.32.03 Rezoning

Ord. No. 96-15	From R-1 to C-2	SE 1/4 of Sec. 11, Twp 10 N., Range 10
Ord. No. 98-14	From R-1 to C-2	Part of NE 1/4 of Sec 11, Twp 10N, Range 10 W
Ord. No. 98-15	From R-3 to C-2	Blocks 44 & 55 of Railroad Addition
	From R-3 to R-1	Part of NE 1/4 of Sec 21, Twp 10 N, Range 10 W
	From I-1 to C-2	Part of SW 1/4 of Sec 16 Twp 10 N, Range 10 W
	From R-1 to I-1	Part of E ½ of Se 13, Twp 10 N, Range 10 W
	From C-2 to I-1	Aromatic on Ray Street
	From R-1 to C-2	South ½ of Sec 12, twp 10 N, Range 10 West
	From R-1 to C-2	Part of NW 1/4 of Sec 12, Twp 10 N, Range 10 W
	From R-1 to C-2	Part of NE 1/4 of Sec 11, Twp 10 N, Range 10 W
Ord. No. 98-16	From R-1 to C-2	Part of E ½ of Sec 11, Twp 10 N, Range 10 West
Ord. No. 99-20	From R-1 to R-2	Part of N ½ of Sec 11, Twp 10 N, Range 10 West
Ord. No. 2000-3	From R-1 to C-2	Lots 1 ,2, 3, 4, 5, 6 & 7 of Heritage Heights Sub.
Ord. No. 2000-8	From R-3 to C-2	Blocks 8, 9, 10 & 11, Depot Addition

Ord. No. 2000-18	From R-1 to R-2	Part of S ½ of Sec. 1, Twp 10 N, Range 10 West
Ord. No. 2002-3	From R-2 to R-3	Part of S ½ of Sec. 1, Twp 10 N, Range 10 West
Ord. No. 2002-9	From R-1 to R-R	Part of NE ¼ of Sec. 11, Twp 10 N, Range 10 West
Ord. No. 2002-13	From R-1 to C-2	Lots 30,31 and 32 of Greers Acres Addition
Ord. No. 2002-16	From R-3 to C-1	Lots 7 ,8, 9, 10,11 and 12 of Block 34
Ord. No. 2004-10	From R-1 to R-2	Part of NE ¼ of Sec. 22, Twp 10 N, Range 10 West
Ord. No. 2004-14	From R-1 to C-2	Part of NW ¼ of Sec. 18, Twp 10 N, Range 9 West
Ord. No. 2005-8	From R-1 to R-2	Part of E ½ of Sec. 11, Twp 10 N, Range 10 West
Ord. No. 2005-9	From C-2 to R-R	Part of S ½ of Sec. 11, Twp 10 N, Range 10 West
Ord. No. 2007-6	From R-1 to R-3	Part of E ½ of Sec. 12, Twp 10 N, Range 10 West
Ord. No. 2008-6	From R-1 to R-2	Part of NE ¼ of Sec. 16, Twp 10 N, Range 10 West
Ord. No. 2008-11	From R-1 to PUD-1	N ½ of Sec. 12, Twp 10N, Range 10 West
Ord. No. 2009-7	From R-1 to R-3	Part of SE ¼ of Sec. 13, Twp 10 N, Range 10 West
Ord. No. 2012-11	From RR to PUD	Part of SW ¼ of Sec. 1, Twp 10 N, Range 10 West
Ord. No. 2015-4	From R4 to C-2	20 Rock Products Road, Heber Springs, Arkansas