

# ***CITY OF BROOKLAND***

## **ZONING CODE**

*Adopted by the Brookland City Council*

Ordinance #2015-\_\_  
December 14<sup>th</sup>, 2015

# TABLE OF CONTENTS

ARTICLE I. CITATION, PURPOSE, NATURE AND APPLICATION.....	1
ARTICLE II. APPLICATIONS AND APPEALS.....	2
ARTICLE III. ADMINISTRATION AND ENFORCEMENT .....	5
ARTICLE IV. GENERAL PROVISIONS .....	7
ARTICLE V. RESIDENTIAL DISTRICTS .....	10
ARTICLE VI. COMMERCIAL DISTRICTS .....	15
ARTICLE VII. INDUSTRIAL DISTRICTS.....	19
ARTICLE VIII. AGRICULTURAL DISTRICTS .....	23
ARTICLE IX. PLANNED UNIT DEVELOPMENT DISTRICT .....	25
ARTICLE X. SPECIAL PROVISIONS.....	31
ARTICLE XI. SIGNS.....	41
ARTICLE XII. OFF-STREET PARKING AND LOADING REQUIREMENTS .....	48
ARTICLE XIII. NONCONFORMING STRUCTURES AND USES .....	51
ARTICLE XIV. AMENDMENTS TO ZONING CODE AND MAP .....	53
ARTICLE XV. CONDITIONAL USES .....	56
ARTICLE XVI. BOARD OF ADJUSTMENT .....	59
ARTICLE VII. DEFINITIONS .....	62

## **ARTICLE I. CITATION, PURPOSE, NATURE AND APPLICATION**

### ***Section 1.01.0. Citation***

This Code shall be known as the Zoning Code of the City of Brookland and may be cited as such or, for the sake of brevity, as the "Zoning Code."

### ***Section 1.02.0. Purpose***

The zoning regulations set forth herein are enacted to implement the Comprehensive Plan for the City of Brookland and to promote, in accordance with present and future needs, the safety, order, convenience, prosperity, and general welfare of the citizens of Brookland, Arkansas; and to provide for efficiency and economy in the process of development for the appropriate use of land, for the use and occupancy of building, for helpful and convenient distribution of population, for good civic design and arrangement, and for adequate public utilities and facilities.

### ***Section 1.03.0. Authority***

The provisions contained in the Zoning Code are adopted pursuant to the authority conferred on the city by the General Assembly of the State of Arkansas, A.C.A. §14-54-103, General Powers of Cities and Towns; A.C.A. §14-54-104; and A.C.A. Title 14, Chapter 56, Municipal Building and Zoning Regulations-- Planning; as amended.

### ***Section 1.04.0. Jurisdiction***

These regulations apply only within the corporate limits of the City of Brookland.

### ***Section 1.05.0. Validity and Repeal***

#### ***1.05.1. Validity***

The following statements pertain to the validity of this code:

- A. This Zoning Code and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or subsection, phrase or clause is judged unconstitutional or invalid, it is hereby provided that the remainder of the Zoning Code shall not be affected thereby.
- B. The City Council of the City of Brookland hereby declares that all such remaining parts would have been passed irrespective of the validity or invalidity of any parts found to be invalid.

#### ***1.05.2. Repeal***

All or parts of ordinances in conflict with this Zoning Code or inconsistent with provisions of this Code are hereby repealed to the extent necessary to give this Zoning Code full force and effect upon its adoption by ordinances of the City Council of the City of Brookland, Arkansas.

## **ARTICLE II. APPLICATIONS AND APPEALS**

### ***Section 2.01.0. Applications***

In order to obtain zoning changes and certain permits, an applicant must first submit an application to the Administrative Official. The process for filing specific kinds of applications may be found as listed below.

Rezoning	Section 14.05.0	Page 54
Rezoning (PUD)	Article IX	Page 25
Variance	Section 16.05.0	Page 59
Conditional Use Permit	Section 15.02.0	Page 56
Sign Permit	Section 11.02.0	Page 41

Applicants should obtain the forms and directions for all applications at City Hall. The Administrative Official will maintain a calendar showing the required date for all applications.

### ***Section 2.02.0. Public Hearings***

#### ***2.02.1. Public Hearings***

Public hearings shall be held for all rezoning requests, planning commission decision appeals conditional use permits, Board of Adjustment meetings, revisions to the Comprehensive Plan, and revisions to the Zoning Code.

#### ***2.02.2. Amendments***

Comprehensive/Future Land Use Plan amendments, rezonings, and conditional use permits an advertised notice of public hearing to be placed in a public newspaper of general circulation at least fifteen (15) days prior to the meeting.

#### ***2.02.3. Board of Adjustment***

Meetings of the Board of Adjustment shall be public hearings and require a notice of public hearing to be advertised seven (7) days prior to the hearing.

#### ***2.02.4. Meetings***

The Planning Commission shall conduct all meetings in accordance with its most recently adopted by-laws. All meetings are open to the public.

### ***Section 2.03.0. Appeals***

#### ***2.03.1. Appeals from the decisions of the Planning Commission***

Any person aggrieved by a decision of the Planning Commission in interpreting any section of these zoning regulations may make an appeal to City Council.

- A. Notice of Appeal: Notice of an appeal to the City Council of a decision of the Planning Commission to approve, conditionally approve, or deny a request shall be filed by the applicant or any other interested party with the Administrative Official within thirty (30) days of the decision together with an appeal fee.

The Notice of Appeal shall be filed on forms and in a format prescribed by the City. As a minimum, however, the applicant shall provide the following information:

1. Summary of any reasons provided by the Planning Commission concerning the decision made in the case.
2. Reasons why the applicant of the appeal contends that the Planning Commission erred in its decision.
3. Reasons why the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the Planning Commission's decision were reversed.
4. Any new and pertinent information bearing on the case which may have been overlooked by the Planning Commission or which may have come to light following the meeting at which the Planning Commission made its decision.

Upon receipt of the notice of appeal and appeal fee, the Administrative Official shall promptly forward the notice of appeal to the City Clerk together with any appropriate staff reports and the decision of the Planning Commission from which the appeal is made.

- B. Public Notice: Following receipt of the notice of appeal, the City Clerk shall set the matter for consideration on the City Council's next available agenda and give due notice to interested parties of the time and place of the public hearing

The Administrative Official shall provide notice of the appeal in a publication of general circulation at least 15 days before the hearing.

Also, the City shall require the petitioner to place a sign in an eye-catching place on the site of the property in question, indicating the date, time, and place of the public hearing on the petition. Said sign should be placed on the site no fewer than 15 days prior to the date of the hearing.

- C. Appeal Hearing: At the time set for the appeal consideration, the City Council shall receive a written report from the Administrative Official on behalf of the Planning Commission setting forth the facts and circumstances of the case and the decision of Planning Commission. The applicant and any other interested party shall have an opportunity to present testimony orally and/or in writing.

If new information is presented to the City Council that was not presented at the public hearing held before the Planning Commission or otherwise considered by the Planning Commission or public, the City Council shall remand the case back to the Planning Commission for reconsideration. For rezoning requests and conditional use requests, such reconsideration shall require a new public hearing.

The City Council may affirm, reverse, or modify the decision of the Planning Commission. The decision of the City Council shall be final and shall be effective immediately upon pronouncement of the decision.

- D. Conditions: The City Council may only impose such conditions to its approval as may be necessary to conform to the City's Zoning Code and building regulations.

**2.03.2. Appeals from the decisions of the Board of Adjustment**

Appeals from the decision of the Board of Adjustment shall be made directly to the court of record having jurisdiction as prescribed by A.C.A. §14-56-416.

**2.03.3. Appeals from the decisions of the Administrative Official**

Appeals from the decisions of the Administrative Official shall be heard by the Board of Adjustment.

**Section 2.04.0. Expirations, Extensions, and Reinstatements**

Planning Commission and City Council approvals covered by the Zoning Code shall be subject to the following expiration requirements.

- A. Rezoning - Non PUD: No expiration.
- B. Conditional Use: No expiration unless placed as a condition of approval by the applicant, planning commission, or city council.
- C. Planned Unit Development: Approvals shall expire within 1 year if construction has not commenced and within three years if construction has not been completed.
- D. Building Permits: Building permits shall expire within 6 months if construction has not commenced and within 2 years if construction has not been completed.
- E. Sign Permits: Sign permits shall expire within 3 months if construction has not commenced.
- F. Variance: Where no building or construction is involved, approvals for the use of the property for which the Variance is issued shall expire within 6 months if not begun.

Where buildings or construction is involved, if a building permit for the construction tied to the Variance is not issued within six (6) months or completed within two (2) years, the approvals shall expire.

**Section 2.05.0. Fees**

The City of Brookland shall impose fees for items covered by the Zoning Code according to a schedule adopted by the City Council.

## **ARTICLE III. ADMINISTRATION AND ENFORCEMENT**

### ***Section 3.01.0. Administrative Official***

The provisions of this Code shall be administered by the Administrative Official, which shall be a person or persons designated by the Mayor. The Administrative Official may be provided with the assistance of such other persons as directed by the Mayor.

The Administrative Official shall enforce the provisions of this Code, and in addition thereto shall:

- A. Examine and approve any application pertaining to the use of land, buildings, signs, or structures to determine if the application conforms to the provisions of this Code.
- B. Issue all zoning approvals and certificates of occupancy, and keep permanent records thereof.
- C. Conduct such inspections of buildings, structures, and use of land as are necessary to determine compliance with the regulations of this Code.
- D. Revoke approvals where provisions of this Code are being violated.

### ***Section 3.02.0. Building Code***

All fabrication, erection, construction, enlargement, alteration, repairs of buildings or structures shall meet the Arkansas Fire Prevention Code as well as applicable HVAC, Plumbing, Electrical, Energy, or other codes.

### ***Section 3.03.0. Building Permit***

The City will issue a building permit for either the new construction or renovation of a building or structure within the corporate limits of the City of Brookland only when the application has been approved by the Administrative Official as meeting the requirements of these regulations. No building permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

All applications for building permits shall be accompanied by a plot plan, submitted in two copies, drawn to scale, showing the size and location of the building to be constructed, indicating the setbacks from perimeter property boundary lines, proposed off-street parking, and such other information as may be necessary to provide for the proper administration of these regulations. A record of such application and plot plan shall be filed in the Brookland City Hall.

### ***Section 3.04.0. Certificate of Occupancy***

No building hereinafter erected or structurally altered shall be used, occupied or changed in use until a Certificate of Occupancy shall have been issued by the Administrative Official, stating that the building or proposed use of a building or premises complies with the provisions of these regulations. The Brookland City Hall shall maintain a record of all Certificates of Occupancy.

A Certificate of Occupancy may be revoked by the Administrative Official when it is found that the building or land does not conform to the use or condition, if any, in the Certificate. Each day a use continues after revocation of the Certificate shall constitute a separate offence and shall be punished as provided herein.

It shall be unlawful for any public or private utility to connect utility service to a building hereinafter erected or structurally altered for which a Certificate of Occupancy has not been issued and evidence of such issuance delivered to the public or private utility.

### ***Section 3.05.0. Violations and Penalty***

#### ***3.05.1. Enforcement Responsibilities***

- A. If the Administrative Official shall find that the provisions of these regulations are being violated, (s)he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.
- B. Should the person responsible for such violations fail to take the necessary action to correct it, the Administrative Official shall notify the City Attorney, and said City Attorney shall within seven (7) days thereafter apply to Chancery Court for an injunction, mandamus, or other process to prevent, enjoin, abate, or remove said violation to these regulations.

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully state the causes and basis thereof and shall be filed with the Administrative Official. (S)he shall record properly such complaint, immediately investigate, and take action thereon as provided by these regulations.

#### ***3.05.2. Penalty for Violation***

Any person or corporation who shall violate any of the provisions of these regulations or fail to comply thereafter with any of the requirements thereof, or who shall build or alter any building in violation of the detailed statement of plans submitted and approved hereunder shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not more than one hundred dollars (\$100.00). Each day such violation is permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of these regulations shall be placed, or shall exist; and any architect builder, contractor, agent, engineer, person or other corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be deemed guilty of a separate offense and upon conviction thereof shall be fined as hereinabove provided.



## **ARTICLE IV. GENERAL PROVISIONS**

### ***Section 4.01.0. Zoning Districts Established***

For the purpose of these regulations, the City is hereby divided into land use zoning districts, as follows:

- R-1 Low Density Residential
- R-2 Medium Density Residential
- R-3 Apartment Residential
- R-MH Manufactured Home Residential
- A-1 Agricultural/Rural Residential
- C-1 Downtown Commercial
- C-2 General Commercial
- I-1 Industrial
- PUD Planned Unit Development

### ***Section 4.02.0. Zoning Districts Map***

The location and boundaries of the land use zoning districts established by this Code are bounded and defined as shown on the map designated as "Official Zoning Map" and maintained in City Hall. The map, together with the legend, words, figures, symbols, dimensions, and explanatory material on it, is declared to be a part of this Zoning Code and may be referred to variously as the Zoning District Map or the Official Zoning Map. The Official Zoning Map shall be available for inspection and examination by the general public at all reasonable times as any other public record. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk.

### ***Section 4.03.0. Interpretation of District Boundaries***

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

- A. Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed as following such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

- E. Boundaries indicated as parallel to or extensions of features mentioned in the preceding rules shall be interpreted as such.
- F. In circumstances not covered by the preceding rules, the Board of Adjustment shall interpret the district boundaries.

***Section 4.04.0. Relationship to Land Use Plan***

Zoning designations changed after the adoption of these regulations shall conform to the city's adopted land use plan. If a proposed rezoning conflicts with the land use plan, the applicant must first request an amendment to the land use plan. The planning commission may allow the submission of a request for plan change simultaneously with a request for the rezoning of a parcel or parcels.

***Section 4.05.0. Vacation of Public Easements***

Whenever any street, alley or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

***Section 4.06.0. Determination of Uses Not Listed***

When a use is not specifically listed as a permitted or conditional use within a particular zoning district, the Planning Commission shall determine if the use shall be allowed as a permitted or conditional use. In making such determination the Planning Commission shall consider the similarity of the use and its impacts to other permitted or conditional uses within the zoning district.

***Section 4.07.0. Completion of Existing Buildings***

Nothing in these regulations shall require any change in plans, construction, or designated use of a building under construction at the time of the adoption of these regulations.

Nothing in these regulations shall require any change in plans, construction, or designated use of a building for which a building permit has been issued within 30 days prior to the adoption of these regulations, provided construction is started before the expiration of the building permit.

***Section 4.08.0. Preservation of Minimum Lot Areas***

Unless by a variance, no lot or yard area, or other open space, or off-street parking or loading space required may be reduced in dimension or area below the minimum requirements of the Zoning Code. No lot or division of property shall be approved that will result in a lot size or yard area reduced below the minimum requirements of this Code.

***Section 4.09.0. Principal Structure on Lots***

In residential districts only one principal structure and its customary accessory structures may be erected on any lot unless otherwise provided in this Code.

Accessory structures with sinks, cook stoves, other kitchen facilities, and bathroom facilities designed for the independent occupancy of a structure shall be considered evidence that the structure is not an accessory structure but a separate dwelling.

#### ***Section 4.10.0 Lots of Record***

Any single lot or platted parcel of land, which was of record at the time of adoption of this Code, that does not meet the requirements of minimum lot width or area specified for the zoning district in which it is located, or which was built upon such that the building setback, yards, open space, building height, or location of parking or loading spaces, do not now comply with the requirements for the District in which it is located, may be utilized for a permitted use with the yards, courts, or usable open spaces reduced to not less than seventy-five (75) percent of the dimensions specified for the District in which it is located. This requirement excludes single-family homes which may be constructed on any existing lot of record within a district where single-family homes are a permitted use.

#### ***Section 4.11.0. Annexed Lands***

##### ***4.11.01. Boundaries***

The boundary line of a land area proposed for annexation to the City of Brookland shall be drawn in such a manner as to include the entire width of any adjacent or contiguous public rights-of-way or easements, in contrast to a location of the centerline or along the interior side of the right-of-way or easement.

##### ***4.11.02. Classification of Annexed Lands***

The zoning district classification(s) of any new additions and annexations of land to the City of Brookland after adoption of these regulations shall be established in one of two ways;

- A. The petitioner(s) for annexation may request specific zoning classifications as a part of the petition for annexation. In this event, the City Council shall direct the Planning Commission to make such studies as it deems advisable and appropriate, and make recommendation regarding the proper zoning classification of such lands. The procedures governing amendments to the Zoning Districts Map at Section 14.04.0 shall be followed.
  
- B. In the event that no specific zoning classification has been requested in the petition for annexation, the annexed lands shall automatically be classified as R-1 Low Density Residential and subject to the requirements of that classification upon the effective date of said annexation. Unless the R-1 designation conforms with the projected land use for the property on the City's Land Use Plan, such classification shall only be valid for a period of time not to exceed one (1) year from the effective date of the ordinance annexing said addition. Within this one (1) year of time, the City Council shall instruct the Planning Commission to study and make recommendations concerning the use of land within said annexation to promote the general welfare and in accordance with any applicable plans adopted by the City of Brookland. The procedures governing amendments to the Zoning Districts Map at Section 14.04.0 shall be followed.

## **ARTICLE V. RESIDENTIAL DISTRICTS**

### ***Section 5.01.0. Purpose of Each District***

#### ***5.01.01. Low Density Residential (R-1)***

The R-1 District is intended to provide for quiet, low density residential areas characterized by single-family homes and the supporting religious, recreational, educational, and institutional uses for an attractive, functional neighborhood.

#### ***5.01.02. Medium Density Residential (R-2)***

This is a residential district of the same general type and character as that described above for the R-1 District, containing many of the same requirements and restrictions as applicable to the R-1 District, but allowing for a slightly higher population density than permitted in the R-1 District. The principal uses of land are for single-family and two-family homes, all supported by necessary religious, educational, institutional, and recreational facilities normally required to provide the basic elements of a balanced and attractive residential neighborhood.

#### ***5.01.03 Apartment Residential (R-3)***

The R-3 District provides for quiet, medium to high density residential areas characterized by a diversity of housing types. This district includes development ranging in density from single-family homes to large scale apartment complexes. It is intended to allow and encourage affordable housing and housing choice through a diversity of housing options.

#### ***5.01.04 Manufactured Home Residential (R-MH)***

This district encourages affordable housing of varied types in specified locations within the city. The district is characterized by site-built housing and manufactured homes placed on individual lots with uniform design guidelines imposed to maintain neighborhood harmony and consistency in appearance. This district is also intended to provide for manufactured home subdivisions as well as manufactured home parks.

**Section 5.02.0. Permitted Uses.**

The permitted uses in each of the residential districts are set forth in the following table. The following symbols, placed opposite a permitted use and underneath a residential zoning district, shall have these meanings:

“P” means that the listed use is permitted by right in that district.

“CU” means that the listed use is permitted subject to approval as a conditional use per the requirements of Article XV.

“X” means that the use is prohibited.

**RESIDENTIAL DISTRICTS**

<b>Permitted Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-MH</b>
<b>A. Residential</b>				
Single-Family Dwelling	P	P	P	P
Two-Family Dwelling	X	P	P	X
Three/Four-Family Dwelling	X	CU	P	X
Apartment Dwelling	X	X	P	X
Mobile Home	X	X	X	X
Manufactured Home	X	X	X	P
Manufactured Home Park	X	X	X	CU
Manufactured Home Subdivision	X	X	X	P
Townhouse	X	P	P	X
<b>B. Commercial</b>				
Bed & Breakfast	X	CU	CU	X
Residential Home Day Care	P	P	P	P
Day Care Family Home	X	CU	CU	X
Child Care Center/Adult Daycare	X	X	CU	X
Home Occupation	P	P	P	P
<b>C. Community Facilities and Public Utilities</b>				
Church or other place of worship	P	P	P	P
Club or lodge, private	CU	CU	CU	CU
Community building, public	CU	CU	CU	CU

<b>Permitted Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-MH</b>
Public Utilities	P	P	P	P
Establishment for care of alcoholic, drug or psychiatric patients	X	X	X	X
Golf course, but not including commercially operated driving range or miniature golf course	CU	CU	CU	CU
Hospital, health center, institution for aged or children, and extensions or additions to existing	X	CU	CU	X
Library	CU	P	P	CU
Nursing, convalescent or rest home and extensions or additions to existing	X	CU	CU	X
Park or playground	P	P	P	P
School, public, parochial, or private non-profit	CU	CU	CU	CU
Wireless Communication Facility	CU	CU	P	CU
<b>D. Agricultural</b>				
Animal husbandry, dairying, and pasturage	CU	X	X	CU
Field crops, floriculture, greenhouses, horticulture, nursery truck gardening or viticulture, but not including retail sales on the premises	CU	CU	CU	CU
<b>E. Other</b>				
Other similar uses, not specifically enumerated above	CU	CU	CU	CU

**Section 5.03.0. Special Prohibited Uses**

- A. Travel trailers or motor homes, buses, trucks two (2) tons and over, and similar vehicles or apparatus shall not be stored or parked in front yards on a permanent basis. Such vehicles and trailers shall not be occupied on permanent basis as a place of residence. A permanent basis is defined as greater than 2 weeks.
- B. Accessory structures, as defined in this Code, shall not be permitted in the front yards. Any yard adjoining a street may be considered a front yard, as defined by this Code.

**Section 5.04.0. Lot, Yard and Height Requirements**

Every principal permitted use hereafter erected or located in a residential district shall have the lot area and widths identified below. No buildings shall be erected or enlarged unless the following yard setbacks are provided and maintained in connection with such building, structure, or enlargement.

Yard (front, rear, and side) are identified in the definition section of this Code. Front, side, and rear yard setbacks shall be measured from the property line or, when greater, the projected edge of the proposed street right-of-way shown on the Master Street Plan.

Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus shall not be subject to the height requirements.

## RESIDENTIAL LOT, YARD & HEIGHT REQUIREMENTS

Zoning District	Minimum Lot Area	Minimum Lot Width	Setback Requirements				Max. Height
			Front	Side	Side-Street	Rear	Feet
R-1	Single-Family: 5,000 sq. ft.	Single-Family: 50 ft.	25 ft.	10 ft.	25 ft.	10 ft.	36 ft.
R-2	Single-Family: 5,000 sq. ft.; Two-Family: 9,000 sq. ft.; Multi-Family: 12,000 sq. ft. plus 2,000 for each additional unit over 3*	Single-Family: 50 ft.; Two-Family: 60 ft.; Multi-Family: 70 ft.	25 ft.	10 ft.	25 ft.	10 ft.	36 ft.
R-3	Single-Family: 5,000 sq. ft.; Two-Family: 7,200 sq. ft.; Multi-Family: 12,000 sq. ft. plus 2,000 for each additional unit over 3*	Single-Family: 50 ft.; Two-Family: 60 ft.; Multi-Family: 70 ft.	25 ft.	10 ft.	25 ft.	10 ft.	36 ft.
R-MH	Single-Family: 5,000 sq. ft.; Two-Family: 7,500 sq. ft.	Single-Family: 50 ft.; Two-Family: 60 ft.	25 ft.	10 ft.	25 ft.	10 ft.	36 ft.
All R Districts	Places of Public Assembly, Places of Worship, Educational Facilities: 15,000 sq. ft.	100 ft.	25 ft.	25 ft.	25 ft.	25 ft.	36 ft.

**Notes:**

Existing platted lots of records that do not meet the above requirements may be used subject to Section 4.10.0.

\* Rear and side yards for lots with 3 dwelling units or more shall be screened with a solid fence at least 6 ft in height.

**Section 5.05.0. Signs**

Sign regulations for this district are handled in Article XI.

**Section 5.06.0. Parking**

The parking regulations for this district are handled in Article XII.

**Section 5.07.0. Special Provisions in the R-MH District**

All dwellings in this district shall be subject to the following standards:

- A. Dwellings shall be oriented such that the front door of the structure faces the street.
- B. Dwellings shall be constructed with a type of siding that is consistent with other homes in the general vicinity.
- C. Roofs shall be sloped and shingled.

- D. If applicable, dwellings, shall be set up and anchored in accordance with regulations set forth by the Arkansas Manufactured Home Commission.
- E. Dwellings shall have a continuous underpinning around the perimeter of the structure.
- F. All dwellings will be the principal structure on the lot.
- G. Dwellings moved into this zoning district shall be new and under warranty or inspected by the city's Administrative Official prior to being moved on site to ensure the dwelling will be inhabitable in a safe manner.
- H. When a dwelling unit arrives on-site in this district with transportation elements attached, including tongues, axles, and wheels used to transport Manufactured Housing, such transportation elements shall be removed as part of the set-up.



## ARTICLE VI. COMMERCIAL DISTRICTS

### *Section 6.01.0. Purpose of Each District*

#### **6.01.1. Downtown Commercial (C-1)**

The C-1 District is the designation for the historic center of the community. A variety of retail, wholesale, professional, and governmental functions have developed in the district over the lifetime of the city's history. The intent of the district is to encourage a diverse uses and building forms that sustain the historic character of downtown Brookland. This district is intended to be used in or expanded to areas beyond Brookland's traditional downtown.

#### **6.01.2. General Commercial (C-2)**

The C-2 District provides for appropriate locations for those commercial establishments, which are cohesive, attractive and convenient for vehicular and pedestrian accessibility. Uses within this district serve the commercial needs of local traffic and highway traffic.

#### **6.01.3. Highway 49 Overlay District**

The Highway 49 Overlay District is intended to provide an attractive and pleasing gateway/entry into Brookland through the use of design controls and access management.

### **Section 6.02.0. Permitted Uses**

The permitted uses in each of the residential districts are set forth in the following table. The following symbols, placed opposite a permitted use and underneath a residential zoning district, shall have these meanings:

"P" means that the listed use is permitted by right in that district.

"CU" means that the listed use is conditionally permitted, subject to approval of the planning commission, pursuant to the conditional use procedures as set forth in Article XV.

"X" means that the use is prohibited.

### COMMERCIAL DISTRICTS

<b>PERMITTED USES</b>	<b>C-1</b>	<b>C-2</b>
Adult Day Care	P	P
Appliance sales and service	P	P
Automotive accessory and supply store	P	P
Automotive, boat, and truck sales, rental, and service	CU	P
Automotive repair and service station	X	P
Automotive car wash	X	P
Automotive service station, not including body or motor repair or painting	X	P
Bank and other financial institutions	P	P
Bed and Breakfast	P	P

<b>PERMITTED USES</b>	<b>C-1</b>	<b>C-2</b>
Bowling alley	P	P
Building supplies, including sale of lumber	X	P
Carnival, circus or similar temporary amusement enterprise	P	P
Carting, crating, express hauling, moving or storage	X	P
Church	P	P
Child Care Center, nursery, or kindergarten (including home based)	P	P
Clinic, Medical or Dental	P	P
Club or lodge	P	P
Cold storage plant	CU	CU
Convenience food store	P	P
Commercial/Office – Small Scale	P	P
Drug store or pharmacy	P	P
Dry cleaners	P	P
Dwelling – Multi-family	P	P
Establishment for care of alcoholic, drug or psychiatric patients/Half-way House	X	CU
Farm equipment sales, service, repair	X	P
Feed and fertilizer sales	CU	P
Freight depot, railroad or truck	P	P
Funeral home, mortuary or undertaking establishment	P	P
Furniture and home furnishings repair and sales	P	P
Furniture and home furnishings, sales only	P	P
Grocery store	P	P
Hardware store	P	P
Hotel/Motel	P	P
Hospital	P	P
Ice vending establishment	CU	P
Junk Yards and/or Hazardous Materials use or storage	X	X
Kennel	X	P
Mini-storage	X	P
Manufactured home sales and service	X	P
Museum	P	P
Nursing Home	P	P
Offices	P	P
Open Display Commercial/Outdoor Display Commercial	X	P
Parks	P	P
Personal Service Shop	P	P
Place of Public Assembly	P	P
Place of Worship or Church	P	P
Public Utilities	P	P
Recreation or amusement center	CU	P
Restaurant, Sit-down	P	P
Restaurant, Drive-thru	X	P
Retail	P	P

<b>PERMITTED USES</b>	<b>C-1</b>	<b>C-2</b>
School	P	P
Shooting Range	X	CU
Theater	P	P
Veterinarian, animal clinic	P	P
Warehousing, inside storage only	P	P
Warehousing, packaged products	P	P
Wholesale establishment	P	P
Wireless Communication Facilities	CU	P
Temporary structures for construction and/or sales operations	P	P
Other similar uses, not specifically enumerated above, but determined by the Commission to be consistent with the character and requirements of the district.	CU	CU

**Section 6.03.0. Lot, Yard and Height Requirements**

Every principal permitted use hereafter erected or located shall have the lot area and widths identified below. No buildings shall be erected or enlarged unless the following yard setbacks are provided and maintained in connection with such building, structure, or enlargement.

Yard (front, rear, and side) are identified in the definition section of this Code. Front, side, and rear yard setbacks shall be measured from the property line or, when greater, the projected edge of the proposed street right-of-way shown on the Master Street Plan.

Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, wireless communication facilities or necessary mechanical apparatus shall not be subject to the height requirements.

<b>Zoning District</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Building Site Coverage</b>	<b>Setback Requirements</b>				<b>Max. Height</b>
				<b>Front</b>	<b>Side</b>	<b>Side-Street</b>	<b>Rear</b>	
C-1	N/A	N/A	100%	N/A	N/A	N/A	10 ft.	45 ft.
C-2	7,000 sq. ft.	50 ft.	80%	25 ft.	10 ft.*	25 ft.	15 ft.*	45 ft.
*C-1 and C-2 Properties Adjacent to R Districts Visual screening such as fencing or vegetation of at least 6 ft. in height is required for those portions of the commercial property adjacent to the residential district. In addition, all exterior lighting shall be designed and directed such that it will not project into adjacent residential districts.				25 ft.	35 ft.	25 ft.	35 ft.	45 ft.

Auto Service Station, Car/Boat Sales, Heavy Equip. Sales	7,000 sq. ft.	100 ft. at street	50%	25 ft.	10 ft.*	25 ft.	15 ft.*	45 ft.
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**Section 6.04.0. Signs**

Sign regulations for these district are handled in Article XI.

**Section 6.05.0. Parking**

The parking regulations for these district are handled in Article XII. Off-street parking shall not be required in the C-1 Downtown Commercial District.

**Section 6.06.0. Highway 49 Overlay District**

**6.06.1. Boundaries**

The boundaries of the district include all properties lying within 500 feet of the center line of U.S. Highway 49 inside the city limits of Brookland.

**6.06.2. Application**

These regulations shall apply to all properties falling within the boundaries described in subsection 6.06.1. The regulations shall be in addition to and shall overlay all other zoning regulations. Therefore, properties falling within the boundaries of the overlay district shall be bound to all zoning, subdivision, and signage regulation in addition to being bound by regulations of the overlay district.

Where the requirements or standards of the overlay district conflict with other regulations, the requirements and standards of the overlay district shall control. Where at least twenty-five (25) percent of a property’s area falls within the bounds of the overlay district, the requirements and standards of the overlay district shall apply to the entire property.

**6.06.3. Site and Development Standards**

The following regulations apply to development or redevelopment in the overlay district.

- A. Building Facades: All buildings shall be required to have a front façade facing U.S. 49 Highway. Front building facades and the front eight (8) feet of each sidewall shall be required to be constructed of wood, masonry, rock, stucco, EIFS (exterior insulation and finishing system), architectural metal paneling, or other architectural material approved by the Planning Commission. No front façade shall be allowed to be constructed of corrugated metal.

**ARTICLE VII. INDUSTRIAL DISTRICTS**

**Section 7.01.0. Purpose of Each District**

**7.01.1. Industrial (I-1)**

The I-1 District is intended to provide areas for both light and heavy industrial uses such as manufacturing, assembling, warehousing, etc. that would be considered a nuisance within all other districts, but which do not constitute a nuisance when separated from other residential and commercial uses.

**Section 7.02.0. Permitted Uses**

The permitted uses in each of the residential districts are set forth in the following table. The following symbols, placed opposite a permitted use and underneath a residential zoning district, shall have these meanings:

- “P” means that the listed use is permitted by right in that district.
- “CU” means that the listed use is permitted subject to approval as a conditional use as set forth in Article XV.
- “X” means that the use is prohibited.

**INDUSTRIAL DISTRICTS**

<i>PERMITTED USES</i>	<i>I-1</i>
Agricultural Products Processing	CU
Bulk Storage of Highly Flammable Materials	CU
Contractor or Utility Equipment Parking/Storage Yard	P
Dwellings – All Residential	X
Foundry and Metal Works	CU
Grain Elevator or Feed Mill	CU
Junk or Salvage Yard	CU
Lumber Yard	P
Machine or Welding Shop	P
Manufacturing	P
Places of Worship and Churches	P
Printing and Publishing	P
Processing and Assemblage	P
Public Utilities	P
Racetrack	CU
Recycling and Reclamation	CU
Sand, Gravel or Earth Sales and Storage	P
Sanitary Landfill	CU
Stone, Sand or Gravel Extraction	X
Tanning or Rendering of Animals	X

<b>PERMITTED USES</b>	<b>I-1</b>
Taxidermist	P
Tool and Equipment Rental (Inside or Outside)	P
Airport or Landing Field	CU
Water/Sewage Treatment Plant	P
Warehousing and Wholesaling	P
Temporary structures for construction and/or sales operations	P
Other Industrial Uses not expressly provided for, unless otherwise prohibited by law	CU

**Section 7.03.0. Lot, Yard and Height Requirements**

No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure, or enlargement:

Yard (front, rear, and side) are identified in the definition section of this Code. Front, side, and rear yard setbacks shall be measured from the property line or, when greater, the projected edge of the proposed street right-of-way shown on the Master Street Plan.

Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus shall not be subject to the height requirements.

<b>Zoning District</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Building Site Coverage</b>	<b>Setback Requirements</b>				<b>Maximum Height</b>
				<b>Front</b>	<b>Side</b>	<b>Side-Street</b>	<b>Rear</b>	
I-1	10,000 sq. ft.	100 ft.	50%	50 ft.	20 ft.*	25 ft.	15 ft.*	48 Ft.
*I-1 Properties Adjacent to R Districts								
Visual screening of at least 6 ft. in height is required for those portions of the industrial property adjacent to the residential district.				50 ft.	50 ft.	25 ft.	50 ft.	48 ft.

**Section 7.04.0. Performance Standards**

Any industrial use established in the City of Brookland after the effective date of these regulations shall conform to the performance standards as set forth hereunder:

**7.04.1. Physical appearance:**

The outdoor display of merchandise or vehicles of resale is prohibited except when in operable condition. The outdoor storage of merchandise, vehicles and equipment shall be suitably screened by a fence at least six feet (6') in height through which said materials, equipment, merchandise, and vehicles cannot be seen from the street.

**7.04.2. Flammable or explosive materials:**

Any operation which involves the storage or use of highly flammable gases, acid, liquids, grinding processes or other inherent fire or explosive hazards shall provide evidence that such storage or use is in conformance with all relevant regulations and requirements of the State Fire Marshall and/or relevant regulations.

All outdoor storage facilities for fuel, raw materials, and products used in the manufacturing process or stored as inventory shall be enclosed by a solid fence or wall adequate to conceal such facilities, fuel, raw materials and products from adjacent residential and business districts; provided, however, that such fence or wall need not exceed ten feet (10') in height.

**7.04.3. Noise:**

No operation shall be carried on which involved noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. For the purposes of these regulations, the emission of any sound inherently and recurrently generated which exceeds seventy (70) decibels at any boundary line on the lot on which such sound is generated, is considered obnoxious. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency of shrillness.

**7.04.4. Sewage and Liquid Waste:**

No operation shall be carried on which involves the discharge into a sewer, water course or on the ground of liquid wastes of any nature, which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations, or polluting to any water course above that level of pollution certified as acceptable by the Arkansas Department of Environmental Quality.

All materials or waste which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

**7.04.5. Air Contaminants:**

All air contaminants, smoke and particulate emitted into the air by whatever means shall conform to the Arkansas Air Pollution Control Code, as amended.

**7.04.6 Odor:**

The emission of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this ordinance.

**7.04.7. Gases:**

Gas concentrations in the air shall conform to the Arkansas Air Pollution Control Code, as amended.

**7.04.8. Vibration:**

All machines including punch presses and stamping machines shall be mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths of an inch measured at the lot line. The use of steam or broad hammers shall not be permitted.

**7.04.9. Glare and Heat:**

All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the lot line. No heat from furnaces or processing equipment shall be sensed at the lot line to the extent of raising the temperature of air or materials more than 5 degrees Fahrenheit.

**Section 7.05.0. Signs**

Sign regulations for this district are handled in Article XI.

**Section 7.06.0. Parking**

The parking regulations for this district are handled in Article XII.



**ARTICLE VIII. AGRICULTURAL DISTRICTS**

**Section 8.01.0. Purpose of Each District**

**8.01.1. Agricultural/Rural Residential (A-1)**

The Agricultural District is created to prevent premature urban development of certain lands that eventually will be appropriate for urban use, until the installation of streets, utilities, and community facilities make orderly development possible. The Agricultural District is intended for agricultural uses with accompanying single-family residences as well as incidental accessory uses.

**Section 8.02.0. Permitted Uses**

The permitted uses in each of the residential districts are set forth in the following table. The following symbols, placed opposite a permitted use and underneath a residential zoning district, shall have these meanings:

- “P” means that the listed use is permitted by right in that district.
- “CU” means that the listed use is permitted subject to approval as a conditional use as set forth in Article XV.
- “X” means that the use is prohibited.

**AGRICULTURAL DISTRICTS**

<i>PERMITTED USES</i>	<i>A-1</i>
Agriculture	P
Aquaculture	CU
Automobile Junk or Salvage Yard	X
Bed and Breakfast	CU
Child Care Centers	X
Contractor or Utility Equipment Parking/Storage Yard	X
Dwelling – Manufactured Home	P*
Dwelling – Single-Family Home	P
Dwelling – Two, Three, Four, and Apartment Residential	X
Home Occupation	P
Junk Yards and/or Hazardous Materials Use or Storage	X
Place of Worship or Church	P

\*Such uses shall be subject to the same requirements placed on manufactured homes within the R-MH district. See Section 5.07.0.

**Section 8.03.0. Lot, Yard, and Height Requirements**

Every principal permitted use hereafter erected or located shall have the lot area and widths identified below. No buildings shall be erected or enlarged unless the following yard setbacks are provided and maintained in connection with such building, structure, or enlargement.

Yard (front, rear, and side) are identified in the definition section of this Code. Front, side, and rear yard setbacks shall be measured from the property line or, when greater, the projected edge of the proposed street right-of-way shown on the Master Street Plan. The projection of open balconies, bay windows, and uncovered porches (patios) into yard space is permissible.

Chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, silos, stacks, storage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus shall not be subject to the height requirements.

<b>Zoning District</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Setback Requirements</b>				<b>Maximum Height</b>
			<b>Front</b>	<b>Side</b>	<b>Side-Street</b>	<b>Rear</b>	
A-1	1 acre	N/A	25 ft	25 ft	25 ft	25 ft	45 ft.

**Section 8.04.0. Signs**

Sign regulations for this district are handled in Article XI.

**Section 8.05.0. Parking**

The parking regulations for this district are handled in Article XII.

## **ARTICLE IX. PLANNED UNIT DEVELOPMENT DISTRICT**

### ***Section 9.01.0. General Description***

The purposes of this zone are to promote flexibility and innovation in the design of large-scale developments and to encourage the use of vacant, in-fill parcels in the built up portion of the city. The zone also promotes open space in the project design. The Planned Unit Development District (PUD) allows greater flexibility of design to achieve the goals stated above.

In concept, the PUD is a combination of zoning designation and development plan. A detailed development plan is required for permitting. Development must follow the development plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged, and flexibility is allowed, the PUD may not be used simply as a method of avoiding zoning regulations. The Planning Commission shall consider a PUD proposal only if it meets one of the following threshold criteria.

The PUD will allow the development of an infill parcel in the developed portion of the city that could not be made productive under normal zoning regulations.

- A. The PUD would further the city's goal of providing housing for all economic segments of the city and its Planning Area Boundary.
- B. The PUD involves a large parcel in which flexibility would allow high quality or innovative urban design.
- C. The PUD would aid in the elimination of slums and blight within the city and its Planning Area Boundary.
- D. The PUD design results in a minimum of 30 percent of the total development reserved as permanent open space.

PUDs may be residential, commercial, industrial or mixed-use in nature. The development plan shall clearly depict the proposed land uses. There are no minimum size restrictions for PUDs; however, the Planning Commission will consider PUDs of less than one acre only under special circumstances.

### ***Section 9.02.0. Application Process***

The applicant for a Planned Unit Development permit shall be the owner(s) of the property or the party designated to act as agent for the owners(s). The responsibilities of the applicant are as follows:

- A. Pre-application Conference: Each prospective applicant shall confer with the Planning Commission in connection with the preparation of the application prior to the submission. At this conference, the following information and data shall be considered.
  - 1. The boundaries of the property
  - 2. Existing easements and covenants affecting the property
  - 3. Physical characteristics such as drainage, topography, vegetation and existing structures.

4. Development characteristics such as surrounding land uses, existing streets and availability of utilities.
  5. Elements of the proposed layout such as land uses, open spaces, community facilities, densities, traffic flow and estimated impact on traffic and adjacent land uses.
- B. Development plan submittal: No less than 20 days prior to the Planning Commission meeting at which the proposed Planned Unit Development is to be reviewed, the applicant shall submit ten (10) copies of the proposed development plan to the staff. The submittal shall include the following as a minimum.

A development plan drawn to scale on vellum accompanied by an electronic version of the same in a format compatible with AutoCad® in the version required by the city. Survey information shall be prepared Professional Surveyor (P.S.) Drainage and utility calculations shall be prepared by a Professional Engineer (P.E.) The professional stamps of the individuals responsible for the various elements shall be indicated on the drawing.

1. Name of developer
2. Name and address of owner
3. Type of activity
4. Building footprints for the individual buildings to be included in the PUD except of buildings on lots designated as single-family residential or duplex lots.
5. Topographic contours at two (2) foot intervals
6. All easements existing or proposed
7. Street rights-of-ways and street names
8. All drives, access-ways, alleys, parking lots and any streets proposed to be dedicated
9. Proposed landscaping
10. Open space and community facilities, if any, proposed as part of the PUD
11. Location of all existing and proposed private and public utilities.
12. Names of the owners of adjacent properties
13. Zoning classifications of adjoining properties
14. Construction drawings as necessary to support the proposals outlined in the development plan.
15. Exterior lighting and speakers

### ***Section 9.03.0. Uses Permitted***

The PUD submittal will include a listing of the proposed land uses and the amount of land devoted to each.

### ***Section 9.04.0. Regulations***

The regulations for PUD are as follows:

- A. **Residential Lot Size:**  
No minimum lot sizes are established, per se, so the housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features.
- B. **Open Space Reservation:**  
In any Planned Unit Development, the amount of land not used by buildings, accessory structures, and yards but required by the zoning of the site, shall be maintained open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and conserving visually pleasing elements of the environment. Prior to the sale of any lot, site, home or other structure a bond of sufficient surety determined by the Administrative Official shall be posted with the City for completion of said open space improvements prior to such sale. The development plan shall clearly depict the amount of land to be maintained as permanent open space.
- C. **Development Density:**  
The development plan shall clearly depict the proposed density by land use category.
- D. **Property Owners' Association:**  
As part of the plan proposed for any Planned Unit Development, the developer shall submit a set of covenants running with the land providing for an automatic membership in the Property Owners' Association, to be an incorporated nonprofit organization, operating under recorded land agreements, through which each property owner in the Planned Unit Development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, open space and/or other activities of the Association. Once established, the covenants shall continue and remain in force during the entire existence of the Planned Unit Development.
- E. **Responsibility for Open Space:**  
Nothing in this Section of the Code shall be construed as a responsibility of the City of Brookland, either for maintenance or liability of the following, which shall include but not be limited to: any private open areas, parks, recreational facilities. A hold-harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that 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 approves the nature and location of such lands, and accepts the dedicated areas, the City shall be responsible for the operation and maintenance of these lands and properties.

F. Common Open Spaces:

The size, shape, dimension and location of the common open spaces shall be determined by the Planning Commission in conjunction with the developer or subdivider with consideration being given to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration should also be given in providing parks, recreational facilities, both active and passive, and pedestrian walkways.

Common open space shall be guaranteed by a restrictive covenant describing the open space and its maintenance and improvement running with the land for the benefit of the residents of the Planned Unit Development. The developer shall file, at the time the approved final plat is filed, legal documents that will produce the aforesaid guarantees and, in particular, will provide for restricting the use of common open spaces for the designated purpose.

G. Landscaping Plan:

In order to minimize the disturbance of the natural environment, a general landscaping plan shall be required at the time of development plan submission showing the spacing, sizes, and specific types of landscaping material. The Planning Commission shall review the landscaping plan in conjunction with the review of the development plan.

The preservation of the natural amenities within the Planned Unit Development shall be given due consideration which shall include topography, trees, and ground cover, natural bodies of water, and other significant natural features. Existing trees shall be preserved wherever possible. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. The Planning Commission shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees and natural features before the commencement of building operations shall be discouraged by the Planning Commission.

H. Transportation:

The vehicular circulation system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. The design of collector or arterial streets shall conform to the city's Master Street Plan and shall not be interrupted by gates.

The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the Planning Commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses that generate a considerable amount of pedestrian traffic.

I. Land Subdivision:

In the construction and installation of all subdivision improvements in the Planned Unit Development, said improvements shall conform to all requirements and standards as set forth in the City's Subdivision Regulations, unless exceptions to the requirements are specifically approved by the Planning Commission and the by the City Council as part of the PUD design.

In the future, should the owners of a PUD request that the private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the City, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners.

#### ***Section 9.05.0. Review Process***

The Planning Commission shall review the proposed PUD after proper submittal of all documents and review by the appropriate city staff. The following criteria will govern the approval or disapproval of the PUD application by the Planning Commission.

- A. The PUD shall provide public benefits that would not be achievable through the normal zoning regulations
- B. The PUD shall maintain the same or higher level of service (LOS) for the surrounding traffic system.
- C. The PUD shall conform in size, shape, and bulk to those in surrounding developments. The Planning Commission may make exceptions when adequate buffering is included with the PUD to shield adjoining uses from the adverse effects of higher land use intensities. The Planning Commission may also make exceptions when the PUD clearly represents a transitional development between developments or neighborhoods of differing densities or intensities of use.
- D. The PUD shall be compatible with the all adopted plans and policies of the city, including the Master Street Plan. If the PUD is not consistent with any of such plans or policies, the application must include with the PUD submittal a request to amend such plans or policies.
- E. The PUD shall be designed in such a manner as to protect the public health, welfare and safety of the residents of the neighborhood in which it is located.
- F. The PUD must be of a character and contain such uses that are needed in the area of the proposed project.
- G. Approval of a PUD cannot result in the violation of regulations in the Arkansas Fire Prevention Code or in regulations issued by the Arkansas Health Department. Approval of the PUD cannot result in the reduction of standard engineering practices or in the drainage or water quality requirements of the city.

#### ***Section 9.06.0. City Council Approval***

Planned Unit Developments represent zoning districts and must be approved by the City Council. However, the development shall be in accordance with the approved development plan. The Planning Commission must approve any contemplated deviation from the approved development . Upon approval by the Planning Commission, all recommendations shall be submitted to the Brookland City Council for approval. The Brookland City Council has the authority to require reasonable plan changes

for the Planned Unit Development as a prerequisite to approval. Any dedications of streets or easements to the city must be included in the ordinance approving the PUD.

***Section 9.07.0. Amendments***

Following City Council approval the Planning Commission may approve minor revisions to the site plan if:

- A. No changes are made to either the access or the egress to the PUD.
- B. Any changes to internal traffic arteries do not alter overall traffic patterns, size of streets, or functional classification of streets.
- C. No new streets are proposed for dedication.
- D. No new private streets are proposed.
- E. Overall residential density is not increased.
- F. Overall drainage patterns are not altered.
- G. No additional loads are placed on municipal utilities.
- H. Retail and office space is not increased by more than five percent.
- I. No open space is dedicated for public maintenance.



**ARTICLE X. SPECIAL PROVISIONS**

**Section 10.01.0. Accessory Buildings**

Accessory buildings are subject to the following setbacks:

<b>Setback Requirements</b>			
<b>Front</b>	<b>Side</b>	<b>Side-Street</b>	<b>Rear</b>
Same as Zoning District Or Not Permitted in R and C Districts	5 ft.	Same as Zoning District	5 ft.

- A. In all Residential Districts, or in any Zoning District in which the property is used primarily for residential purposes, a detached accessory building shall be located more than ten (10) feet from the principal building on the property, except when the accessory building has a one hour fire rating wall on the side nearest the residentially used building.
- B. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
- C. Accessory buildings shall be clearly incidental to the main building on the lot. Accessory buildings in excess of 800 square feet or forty (40) percent of the size of the main building shall require a Conditional Use Permit in accordance with the provisions of Article XV.
- D. Storm Cellars shall be considered accessory buildings.

**Section 10.02.0. Automobile Wrecking and Junk Yards**

**10.02.01. General**

Because of the nature of their operations and the noise, dust, traffic, and health hazards they may create, salvage yard shall adhere to the subsequent regulations:

**10.02.02. Standards**

- A. *Location:*  
Because of the tendency of salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than eight hundred (800) feet to any established residential zoning district.

- B. *Screening:*  
All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall, except driveway areas, from not less than eight feet (8') to not more than twelve feet (12') in height. Storage between the street and such fence is expressly prohibited. Any fence or wall erected for screening purposes shall be properly painted or otherwise maintained in good condition. The fence shall be installed around each junk yard at the time the use is established or within 6 months of annexation.
  
- C. *Ingress and Egress:*  
The number of vehicular access driveways for junk yards and automobile wrecking yards having frontage on a State or Federal highway shall be regulated by the Arkansas Highway & Transportation Department.

**Section 10.03.0. Child Care Centers**

For a definition of an Child Care Center see page 64. Requirements applying to Child Care Centers are as follows:

- A. Child Care Centers are required to obtain a permit before beginning operations.
  
- B. Each permit issued for a Child Care Center shall be accompanied by a scaled site plan and shall include the following:
  - 1. Owners Name, address, and telephone number
  - 2. North Arrow
  - 3. Scale
  - 4. Accurate Shape and dimension of the lot or site
  - 5. Lengths of all property lines
  - 6. Roads and rights-of-ways-labeled, both public and private
  - 7. Parking areas, driveway location and any intersections with roads
  - 8. Label all existing structures
  - 9. Locations and dimension of all structures and distances of each to property lines
  
- C. All Child Care Centers shall be located on a lot large enough to meet city codes and state requirements, and all portions of said lot used for outdoor play space shall be fenced with an opaque fence six feet in height.
  
- D. Child Care Centers shall meet all City, County and State Health Department requirements as to safety, design, facilities, equipment, and other features. The facility shall be operated in a manner that will not adversely affect other properties and uses in the area.

- E. Child Care Centers shall provide one paved parking space for each employee at the center at any one time, plus two additional paved parking spaces.
- F. Child Care Centers shall provide one off-street parking space for the loading and unloading of children.

***Section 10.04.0. Residential Day Care***

For a definition of a Residential Day Care see page 64. Requirements applying to Residential Day Cares are as follows:

- A. Residential Day Cares are required to obtain a permit before beginning operations.
- B. Each permit issued for a Residential Day Cares shall pertain to only one (1) building/ structure and each expansion thereof shall require a separated business permit.
- C. The application for a Residential Day Cares business permit shall be accompanied by a scaled site plan and shall include the following:
  - 1. Owners Name, address, and telephone number
  - 2. North Arrow
  - 3. Scale
  - 4. Accurate Shape and dimension of the lot or site
  - 5. Lengths of all property lines
  - 6. Roads and Rights-of-Ways-Labeled, both public and private
  - 7. Parking areas, driveway location and any intersections with roads
  - 8. Label all existing structures
  - 9. Locations and dimension of all structures and distances of each to property lines.
- D. All Residential Day Cares shall be located in a single-family dwelling and shall be operated in a manner that will not change the character of the residence.
- E. All Residential Day Cares shall be located on a lot large enough to meet city codes and street requirements, and all portions of said lot used for outdoor play space shall be fenced with an opaque fence six (6) feet in height.
- F. All Residential Day Cares shall meet all City, County and State Health Department requirements as to safety, design, facilities, equipment, and other features. The facility shall be operated in a manner that will not adversely affect other properties and uses in the area.

- G. All Residential Day Cares shall provide one paved parking space for each employee at the home at any time plus two (2) additional paved parking spaces.
- H. Residential Day Cares shall provide one off-street parking space for the loading and unloading of children.

**Section 10.05.0. In-home Day Cares**

For a definition of an In-home Day Care see page 64. Requirements applying to In-home Day Cares are as follows:

- A. In-home Day Cares operations shall be operated by the resident of the structure.
- B. In-home Day Cares operations shall be operated on a lot meeting city codes and State of Arkansas licensing regulations. All portions of the lot used for outdoor play space shall be fenced with an opaque fence at least 6 feet in height.
- C. The dwelling shall meet all City, County, and State Health Department requirements as to safety, design, facilities, equipment, and other features and the facility shall be operated in such a manner that it will not adversely affect other properties in the area.

**Section 10.06.0. Flammable Liquids and Gases**

The storage of flammable liquids and gases shall comply with the Arkansas Fire Prevention Code and be approved in writing by the Brookland Fire Protection District. Tanks for the storage of flammable liquids and gases in excess of 100 pounds shall be allowed only for Commercial and Industrial use.

**Section 10.07.0. Floodways and Flood Plains**

No excavation, filling or construction is allowed in the floodway as designated on the Flood Insurance Rate Map (FIRM).

Construction is allowed in the flood plain as long as the finished floor of all building space is one foot above the one in one hundred year flood as designated on the FIRM. Brookland's floodplain permitting is handled by the Craighead County Floodplain Manager.

**Section 10.08.0. Home Occupations**

An occupation may be carried on in a residential structure only if:

- A. It does not involve the use of commercial vehicles operating from the residence.
- B. It is clearly secondary to the dwelling purpose of the structure and does not involve a change in the residential character or appearance of the structure.
- C. It does not require the use of an accessory building or of yard space or an activity outside the main structure not normally associated with residential uses. When a State Statute or Regulation requires the operation of an occupation separate from the living

quarters, an accessory structure may be utilized with the approval of the Board of Zoning Adjustment.

- D. The business, occupation, or profession does not occupy more than 25 percent of the gross floor area of one floor of the structure.
- E. It does not involve the external display of goods and services.
- F. The business, occupation, or profession shall be conducted by a person, or persons, residing in the structure.
- G. It meets the definition of "Home Occupation," as defined in Article XVII.

#### ***Section 10.09.0. Manufactured Home Parks***

All new manufactured home parks that are established or existing manufactured home parks which are expanded after the effective date of these regulations shall comply with all of the requirements and standards contained in this section.

##### ***10.09.1. Permitted District Locations***

Manufactured Homes Parks shall be permitted only in the Manufactured Home Residential (R-MH) zone.

##### ***10.09.2. Development Standards***

The Manufactured Home Park shall conform to the following standards:

- A. A manufactured home park shall contain a minimum of five (5) acres.
- B. There shall be a maximum of six (6) manufactured homes per gross acre.
- C. Only one (1) manufactured home may be located on a manufactured home site as designated by the required lot size and yard areas.
- D. A site development plan shall be submitted to the Planning Commission showing the area and dimensions of the tract of land; the number, locations and size of all manufactured home spaces; the location and width of roadways, walkways, and recreational areas; and the location of service buildings and other proposed structures. If approved, the development shall conform to the site development plan and violation of the plan shall nullify the permit. Existing facilities or rented spaces shall not be expanded without prior consent of the Planning Commission.
- E. Each manufactured home park shall be permitted to display on each street frontage, one identifying sign of a maximum size of 32 square feet.

- F. Any manufactured home located in this district shall be set up and anchored in accordance with the Rules and Regulations of the Arkansas Manufactured Housing Commission.

**10.09.3 Design**

- A. **Lot Size:**  
Each manufactured home space shall contain a minimum of 5,000 square feet of site area.  
  
Each manufactured home space shall have a minimum width of fifty (50) feet.
- B. **Yard Areas:**  
A manufactured home space shall have yard setbacks of not less than seven and one-half (7 ½) feet on all sides.  
  
There shall be a minimum distance of twenty (20) feet between manufactured homes.
- C. **Parking and Streets:**  
A minimum of two (2) improved off-street parking spaces shall be provided per manufactured home space, each nine (9) feet by twenty (20) feet.  
  
All manufactured home spaces shall abut a hard-surfaced driveway of not less than twenty (20) feet in width, which shall have unobstructed access to a public street. The driveways will consist of two inches of asphalt over a six-inch gravel base.
- D. **Utilities:**  
Each manufactured home space shall be provided with sanitary sewer and water service as required by the Codes of the City of Brookland.  
  
Utility services to each manufactured home space shall be in conformance with the subdivision regulations of the City of Brookland.  
  
A 200 amp electrical service shall be provided for each manufactured home space.
- E. **Screening:**  
Adequate landscaping shall be provided, including trees and shrubs, around the perimeter of the manufactured home park. Landscaping shall be site obscuring, with a minimum of six (6) foot screening.  
  
Additional fencing and landscaping may be required by the Planning Commission as part of a Conditional Use Permit for a manufactured home park.
- F. **Accessory Structures:**  
The only accessory structure permitted shall be a storage building with a maximum size of ten (10) feet by ten (10) feet, and a garage for the storage of motor vehicles, both of which must meet the yard area requirements.

**10.09.4. Review Procedure**

The Commission shall review all proposals for Manufactured Home Park design using the Conditional Use procedures of Section 15.04.0. of these regulations. However, applicants will not be required to undergo a public hearing

**Section 10.10.0. Mini-Storage**

Where permitted, mini-warehouses shall comply with the following additional requirements:

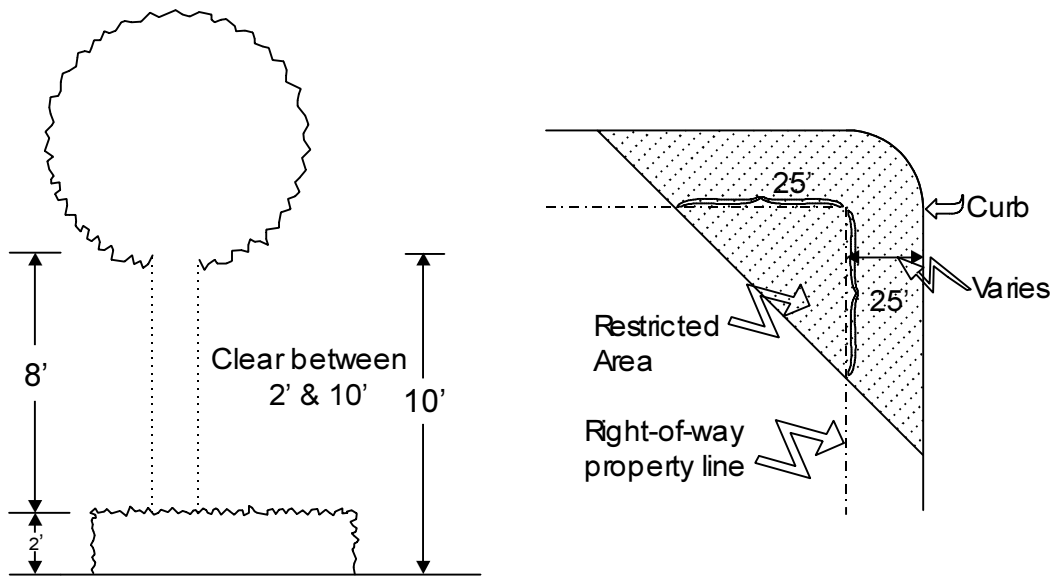
- A. Mini-storage are intended for the use of private individuals and companies principally for the inactive storage of goods and materials and are not to be used as a commercial/office base of operation for a company or individual.
- B. There shall not be any sales, either wholesale or retail, on the premises.
- C. When the mini-warehouse is located adjacent to a residentially zoned property, the owner/developer of the mini-warehouse shall install an opaque screen of not less than six feet (6') in height on any lot line or alley right of way adjacent to said residentially zoned property.
- D. The owner/developer shall pave all portions of the site that are intended to be used for drives, parking, maneuvering, and vehicular access to the warehouse bays.
- E. The owner of the mini-warehouse shall prohibit the storage of highly flammable or explosive liquids, solids, or gases in violation of any law, regulation or ordinance.

**Section 10.11.0. Temporary Dwelling for Construction, Maintenance or Security Personnel**

A manufactured home or other type of dwelling unit intended for temporary use may be located within any district as a special permit use for occupancy by construction, maintenance, or security personnel in accordance with the provisions of Section 5.07.0.

**Section 10.12.0. Visibility at Intersections**

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in a way that prevents vision of the roadway between a height of 2 feet and 10 feet within 25 feet along the property line from the property corner.



**Section 10.13.0. Wireless Communication Facilities**

**10.13.1. Application and Zoning Requirements**

- A. Permit Required: A Tower Use Permit (TUP) shall be required for the approval and construction of any wireless communication facility (WCF) within the city limits of Brookland. It shall be the responsibility of the owner to comply with all federal and state regulations pertaining to the WCF, including but not limited to FAA height and lighting requirements and provisions of the National Environmental Protection Act (NEPA).
- B. Application: All applications for a (TUP) shall include the following:
  1. Scaled site plan, elevation view, and other supporting drawings showing all improvements to the site, adjacent uses, and zoning
  2. Documentation of the location and dimensions of the proposed WCF
  3. Name of applicant
  4. Name of landowner and signed approval of the landowner
  5. Permit fee, according to the fee schedule set by the city council. No permit can be issued without submittal of this fee.
- C. Review Process: Two tracks exist for review of TUP applications.
  1. Track One: Proposed (TUP) applications within the A-1, C-2, I-1 zones may be processed and approved through administrative review by the Administrative Official.
  2. Track Two: Proposed (TUP) applications within the R-1, R-2, R-3, R-MH, and C-1 zones shall require approval by the Planning Commission and be subject to a public



hearing. These applications will be subject to the same review process as conditional use permit.

3. Appeal and Review: The City of Brookland shall complete final action upon any TUP application within 90 days of the filing of the completed application, unless an extension is requested by the applicant. Any decision to deny a request will be made in writing and will be supported by substantial evidence. Any decision concerning the approval or denial of an application made the Administrative Official may be appealed to the Board of Adjustment in writing within 30 days of the decision.

#### **10.13.2. Development Standards**

##### **A. Height**

1. An attached Wireless Communications Facility shall not add more than 20 feet to the existing building or structure to which it is attached.
2. WCF with support structures shall a maximum height of 200 feet in the I-1 and A-1 zones; 150 feet in the C-2; and 100 feet in the R-1, R-2, R-3, R-MH, C-1 zones. Where collocation can be accommodated, towers may be increased by 10 feet in height for each additional provider to a maximum of 50 additional feet.

##### **B. Setbacks**

1. A WCF with support structures shall meet the setback requirements of principal structures of the zone in which it is located, except within residential zones.
2. A WCF with support structures located in a residential district or abutting a residential district on any side shall be setback from any adjoining residential property line a distance of at least equal to the height of the tower as measured from the base of the tower to the property line of a residential lot. Guy-wired anchors shall meet the setback requirements specific to the zoning district in which it is located.

##### **C. Lighting**

WCF shall not be artificially illuminated, directly or indirectly, except as may be required.

##### **D. Signage**

WCF shall not display any signage or message of a commercial nature except as is necessary for safety and security purposes.

##### **E. Fencing**

WCF with support structures shall be enclosed by a security fence not less than six (6) feet in height.

##### **F. Collocation**

All WCF with support structures shall be designed to accommodate additional providers where technically feasible.

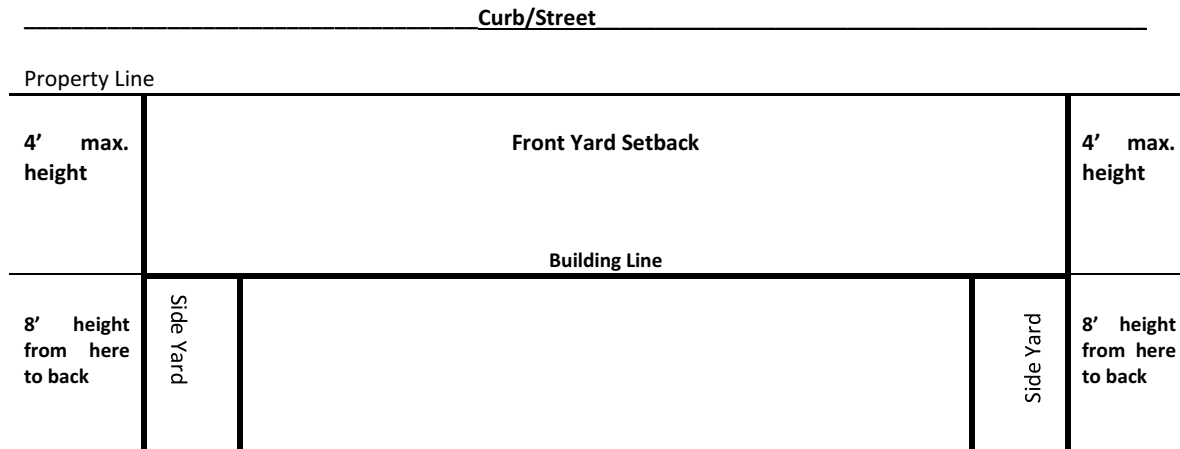
**10.13.3. Special Conditions**

- A. Support Structures for wireless communication facilities shall be of the monopole type construction in all zones except I-1 and C-1.
- B. Structures in the I-1 zones may be of derrick tower or guy-wired supported tower construction.
- C. Only Attached WCF or monopole type facilities using Stealth Technology may be permitted in the C-1 zone.

**Section 10.14.0. Fences, Walls and Hedges (Residential Zones)**

Notwithstanding other provisions of these regulations, fences, walls and hedges shall be permitted in any required yard, or along the periphery or edge of any yard, provided that no fence, wall or hedge along the sides or front edge of any required front yard shall be over four (4) feet in height. Fences, hedges or walls may project into or be located along the side yard from the front building line of the lot to the rear lot line, provided such fences and walls (not hedges or trees) do not exceed a height of eight (8) feet.

Occasionally, unusual circumstances arise in which one person’s front line shares the same area as another person’s back or side line. In these instances, the height of the shorter line shall prevail. A variance may be granted by the commission on a case by case basis.



## **ARTICLE XI. SIGNS**

The purpose of this article is to provide minimum standards to safeguard life health, property, public welfare and community aesthetics, by regulating and controlling the location, design, and quality of maintenance of signs visible to the public.

### ***Section 11.01.0. Rules of Construction***

When determining setback, the leading edge of the sign nearest the curb or edge of street shall be the point from which the setback is determined. When determining maximum signage area of a sign, the total area of one face of the sign shall be used, except for signs having more than one face. The total area of all sign faces shall be used for such signs.

### ***Section 11.02.0. Permit Requirement***

No sign shall be erected, transferred, rebuilt, or structurally altered within the city unless a permit has been issued by the Administrative Official. Addition or modification to the illumination of any existing sign which changes the type or intensity of the lighting shall require a new sign permit. Refacing a sign shall not require a permit unless it alters the illumination of the sign. A separate permit shall be required for each sign.

- A. Applications: Application for a sign permit shall be made on forms provided by City Hall. Requirements shall include but are not limited to location by street address, names and addresses of owner(s) and sign contractors (s), scale drawing of the sign, exact location on lot, and lighting and construction design.
- B. Application Approvals and Permit Issuance: The Administrative Official or assigned designee will be charged with review of all sign permit applications based upon the provisions of this code and other applicable regulations. The Administrative Official shall have 10 business days from receipt of the application to approve or deny the sign permit application. If the Administrative Official fails to render a decision on a sign permit application that appears to meet the provisions of this code and other applicable regulations within 10 business days, the applicant shall be issued a permit for the sign immediately. A written explanation of denial shall be provided for denied permit applications upon request of the applicant. All decisions rendered by the Administrative Official concerning sign permit applications can be appealed to the Board of Adjustment by the applicant.
- C. Sign erection deadline: Permit for any sign not erected within six (6) months of date of issuance shall be void.
- D. Fees: Fees shall be submitted to the City Clerk, upon approval of the application, in the amount set by the schedule of fees set by the City Council. If a penalty has been assessed for non-compliance, both the penalty and the normal permit fee must be paid before a permit shall be issued.

**Section 11.03.0. Penalty**

Any person, firm or corporation who fails to obtain a sign permit shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for each offense. Each day that such violation continues shall constitute a separate offense.

**Section 11.04.0. Permit Exemptions**

The following signs are exempted from the sign permit requirements but must comply with all other requirements of this title:

- A. Memorial signs and building markers.
- B. Election campaign signs.
- C. Windows displays and signs painted on windows.
- D. Signs advertising the sale of real property.
- E. Banners shall be exempt when used to announce a specific event, provided that they are not placed more than 30 days prior to the event and that they are removed within 72 hours following the event.

**Section 11.05.0. Prohibited Signs**

The following signs are prohibited within the city limits:

- A. Unsafe signs.
- B. Traffic hazard signs.
- C. Abandoned signs.
- D. Signs within the public right-of-way.
- E. Roof signs.
- F. No signs may be painted on or attached to trees, rocks, or other natural formations, fence posts, utility poles, or building roofs.
- G. Billboards.
- H. Signs on public property, except as authorized by the City of Brookland or other governmental institution.
- I. Signs with flashing illumination such as electronic message centers and digital video signs, except as window signs.
- J. Signs in Commercial and Industrial zone advertising goods or services for an off-premise entity.

### ***Section 11.06.0. Exemptions***

The following are exempted from these sign regulations.

- A. The message and content of signs.
- B. Product dispensers
- C. Scoreboards and other signs acknowledging sponsors on athletic fields
- D. Flags of any nations, government, or non-commercial organization
- E. Gravestones
- F. Barber Poles
- G. Religious symbols
- H. Display of street address numbers
- I. Any display or construction not defined as a sign
- J. Decorations which are seasonal, clearly incidental and customarily associated with any national, local, or religious observance
- K. Utility Location Signs

### ***Section 11.07.0 Placement and Construction Standards***

Unless otherwise provided in this code, the following regulations shall apply to all signs, billboards, and off premise signs in the city.

- A. **Prevention of Access:** No sign shall be erected which prevents free ingress and egress from any driveway, parking lot, or structure door, window, or fire escape. No sign of any kind will be attached to any part of a fire escape or building standpipe.
- B. **Obstructions of Vision:** On any corner lot no sign shall be erected in a way that prevents vision of the roadway between a height of 2 feet and 10 feet within 25 feet along the property line from the property corner.
- C. **Notwithstanding any regulation of this ordinance,** no sign shall be placed in any position or in such a manner as to obstruct the vision of the motoring or pedestrian public, in the judgment of the Administrative Official. This requirement supersedes all other setback and coverage regulations.
- D. **Interference with Utilities:** No sign shall interfere with the safe operation of all utilities by being placed within five (5) feet of a utility easement or designated utility safety zone or within ten (10) feet of a fire hydrant.

- E. Construction Standards: All signs and sign structures shall conform to the applicable building standards adopted by the City of Brookland. All electrified sign installers and maintenance operators shall be required to submit proof of licensure pursuant to Arkansas State Law.

**Section 11.08.0. Sign Allowed by Zoning District**

**11.08.1 All Zoning Districts**

Construction Signs: One sign per construction site denoting a new construction or development and featuring the name of the development or construction company shall be allowed. Such signs shall not exceed 40 square feet in size and 16 feet in height and must be placed outside of all public right-of-ways. Such signs shall be removed once construction of the site is complete.

**11.08.2 Downtown Commercial District (C-1)**

A. Wall Signs.

- 1. Area: All wall signs shall not exceed 10% of the total square footage of the wall on which the sign is placed. The maximum size for a wall sign on a single tenant structure shall be 75 square feet. The maximum total square footage for all signs on a single occupancy structure shall be 75 square feet per wall.

The maximum size for a wall sign on a multiple tenant structure shall be 75 square feet. The maximum total square feet for all wall signs on a multiple tenant structure shall be 75 square feet for each occupant or 10% of the total square footage of the exterior wall of the occupant's space, whichever is less.

- 2. Height: The maximum height for wall signs shall be 36 feet.

B. Projecting Signs.

- 1. Number: One projecting sign is allowed per business.
- 2. Area: The maximum size for a projecting sign is 10 square feet. The sign shall not project more than 6 feet from the building façade.
- 3. Height: The projecting sign must have clearance from the ground of at least 8 feet.

C. Temporary Signs.

- 1. Number: One temporary sign is allowed per business with a 30 day permit renewable for a total of 60 days per year.
- 2. Area: Maximum area is 55 square feet.
- 3. Height: The maximum height for temporary signs is 36 feet.

D. Prohibited Signs.

Free-standing signs are prohibited in the C-1 Central Business District.

### **11.08.3. General Commercial (C-2) and Industrial (I-1)**

#### **A. Wall Signs.**

1. Area: All wall signs shall not exceed 10% of the total square footage of the wall on which the sign is placed. The maximum size for a wall sign on a single tenant structure shall be 75 square feet. The maximum total square footage for all signs on a single occupancy structure shall be 75 square feet per wall.

The maximum size for a wall sign on a multiple tenant structure shall be 75 square feet. The maximum total square feet for all wall signs on a multiple tenant structure shall be 75 square feet for each occupant or 10% of the total square footage of the exterior wall of the occupant's space, whichever is less.

2. Height: The maximum height for wall signs shall be 36 feet.

#### **B. Projecting Signs.**

1. Number: One projecting sign is allowed per business.
2. Area: The maximum size for a projecting sign is 10 square feet. The sign shall not project more than 6 feet from the building façade.
3. Height: The projecting sign must have clearance from the ground of at least 8 feet.

#### **C. Free-Standing Signs.**

1. Number: A maximum of one free-standing sign shall be allowed for each commercial or industrial building, excluding directional signs of less than four (4) square feet in size and less than four (4) feet in height.
2. Type: Two types of free-standing signs are permitted, Ground-Mounted Signs and Pole Signs. Ground-Mounted Signs may be setback 5 feet closer towards the street than Pole Signs, and may be permitted to increase the maximum signage size by 30%.
3. Area: The maximum size for a free-standing sign for a single tenant structure shall be 100 square feet. The sign surface area shall not exceed one square foot for every four linear feet of public street frontage, counted from along the street where the sign will be placed. Ground-Mounted Signs shall be allowed to increase the maximum allowable area by 30%.

The maximum size for a free-standing directory sign for a multiple tenant structure shall be 200 square feet. The sign surface area shall not exceed one square foot for every three linear feet of public street frontage, counted from along the street where the sign will be placed. Ground-Mounted Signs shall be allowed to increase the maximum allowable area by 30%.

4. Height: The maximum height for Poles-Signs shall be 36 feet. Ground-Mounted Signs shall not exceed 8 feet.
5. Setback: All free-standing sign shall be setback at least 15 feet from the projected edge of the public right-of-way on the Master Street Plan, whichever is greater.

Ground-Mounted Signs may be 5 feet closer to the street or as may be directed by the Arkansas State Highway and Transportation Department.

- D. Temporary Signs.
  - 1. Number: One temporary sign is allowed per business with a 30 day permit renewable for a total of 60 days per year.
  - 2. Area: Maximum area is 55 square feet.
  - 3. Height: The maximum height for temporary signs is 36 feet.

**11.08.4. All Residential and Agricultural Zones (R-1, R-2, R-3, R-MH, A-1)**

- A. Wall Signs.
  - 1. Number: One wall sign is allowed per single-family dwelling.
  - 2. Area: The maximum size for a wall sign shall not exceed 4 square feet.
  - 3. Height: The maximum height for wall signs shall be 12 feet.
- B. Area Identification Signs.
  - 1. Number: A maximum of two area identification signs are allowed per multi-family housing development or residential subdivision.
  - 2. Area: The maximum size for an area identification sign shall be 40 square feet.
  - 3. Height: The maximum height for an area identification sign shall be 12 feet.
  - 4. Setback: All area identification signs shall be setback at least 15 feet from the curb/edge of street or the projected edge of the public right-of-way of the Master Street Plan, whichever is greater.
- C. Prohibited Signs.
  - 1. No free-standing signs, except area identification signs
  - 2. Illuminated signs
  - 3. Portable signs, except real estate signs
  - 4. Temporary signs, except real estate signs
- D. Public Places of Assembly, Educational Facilities, Places of Worship, and Governmental Facilities.

All signs permitted in C-2 Commercial Zones with a 50% reduction on maximum allowed heights and sign area.

**11.08.5. Planned Unit Development (PUD)**

Signs in the PUD District are approved through the Development Plan process.



***Section 11.09.0. Special Sign Requests.***

Signs not covered within this Article may be approved through the Conditional Use Permit process, provide they meet the placement and construction standards of this Code and the request meets the spirit and intent of these regulations.

***Section 11.10.0. Content of Signs***

These regulations are not intended to regulate the message or content of signs. A sign with a non-commercial message may be substituted for a sign with a commercial message wherever such signs are permitted.

***Section 11.11.0. Non-Conforming Signs***

All non-conforming signs in existence at the date of this ordinance shall be considered valid, except, any sign which is determined to be a safety hazard. No non-conforming signs now in existence may be replaced with a non-conforming sign.

## ARTICLE XII. OFF-STREET PARKING AND LOADING REQUIREMENTS

### Section 12.01.0. Off-Street Parking and Requirements

#### 12.01.1. Minimum Standards

In all districts there shall be provided at such time any building or structure is erected, enlarged, or increased in capacity, off-street parking spaces for vehicles in accordance with the following requirements:

- A. Dwelling: Two (2) parking spaces for each dwelling unit.
- B. Hotel/Motel: One (1) parking space for each rentable sleeping room, plus one (1) parking space per each employee on the largest shift.
- C. Medical/Dental Clinics Offices & Hospitals: Four (4) spaces per doctor plus two (2) spaces for each three (3) employees in clinics and offices. For hospitals there shall be one (1) space per bed and one (1) space per employee on duty at any given time.
- D. Nursing Homes: One (1) space for each six (6) patient beds plus one (1) space for each staff or visiting doctor plus one (1) space per employee on duty at any given time.
- E. Community Center, Theater, Auditorium: One (1) parking space for each four (4) seats based on maximum seating capacity.
- F. Convention Hall, Club, Library, Museum, Place of Amusement or Recreation: One (1) Parking space for each fifty (50) square feet of floor area used for assembly or recreation in the building.
- G. Retail Shops: One (1) parking space for each one hundred fifty (150) square feet of floor area devoted to sales.
- H. Offices: One (1) parking space for each three hundred (300) square feet of floor area in the building, exclusive of the area used for storage, utilities and service area.
- I. Commercial Establishment Not Otherwise Classified: One (1) parking space for each four hundred (400) square feet of floor space in the building.
- J. Industrial Establishments: Adequate area to park all employees' and customers' vehicles at all times and adequate space for loading, unloading, and storing all vehicles used incidental to or as a part of the primary operation of the establishment. Not fewer than one (1) parking space shall be provided for each four (4) employees present at any given time.
- K. Church Sanctuary: One (1) parking space for each four (4) seats based on maximum seating capacity; provided, however, that churches may establish joint parking facilities not to exceed fifty percent (50%) of the required spaces, with public institutions and agencies that do not have a time conflict in parking demand. The joint parking facility shall be located not to exceed four hundred (400) feet from the church sanctuary.

- L. Schools : One (1) parking space for each twenty (20) pupils. High Schools shall require one (1) parking space for each six (6) pupils. Schools shall also provide such adequate off-street stacking facilities to prevent vehicles from blocking traffic on-street traffic.
- M. Restaurants : One (1) parking space per 100 square feet of gross floor area open to the public. For restaurants with a “drive-thru,” an additional three (3) off-street stacking spaces per drive-in customer service window shall be required.
- N. All Others: For all other uses not covered in (1) through (11) above, the Planning Commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking thus determined shall be the off-street parking requirement for the permitted use.

**12.01.02. Application of Standards**

In applying the standards set forth above, the following shall apply:

- A. Joint Parking Facilities: Off-street parking facilities for different buildings, structures, or uses, of for mixed uses may be provided collectively in any nonresidential zoning district, provided that the total number of spaces so located together shall not be less than 66% of the sum of the separate requirements for each use.
- B. Where a fractional space results, such fraction shall be counted as one (1) parking space.
- C. These standards shall apply fully to all uses and buildings established after the effective date of these regulations.
- D. Except for parcels of land devoted to single-family or duplex residences, all area devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
- E. Where parking is to be provided in the front yard of a multiple-family dwelling, the first the (10) feet adjacent to the street right-of-way line shall not be used for parking but rather shall be prepared and planted with grass, shrubs, trees, or ground cover.
- F. All parking spaces required herein shall be located on the same lot with the building or use served, with the exception of churches.
- G. No signs of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only non-intermittent white lighting of signs shall be permitted.
- H. Adequate parking spaces shall be provided to meet ADA Accessibility requirements.
- I. The standards may be waived or modified by the Board of Adjustment.

### **Section 12.02.0. Off-Street Loading and Unloading Requirements**

The following requirements shall apply to off-street loading and unloading facilities:

- A. A building whose principal use is handling and selling goods at retail shall provide one (1) off-street loading and unloading space for buildings up to and including ten thousand (10,000) square feet of floor area, plus one (1) additional space for each additional ten thousand (10,000) square feet of gross floor area.
- B. Manufacturing, repair, wholesale, and similar uses shall provide one (1) off-street loading and unloading space for buildings containing ten thousand (10,000) square feet of floor space, plus one space for each forty thousand (40,000) square feet of floor area in excess of ten thousand (10,000) square feet of gross floor area.
- C. Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley, as well as having adequate maneuvering area.

### **Section 12.03.0. Other Requirements**

#### **12.03.01. Paved Surface Required**

The owner/developer shall pave all portions of the site that are intended to be used for drives, parking, maneuvering and vehicular access to warehouse bays; and all other areas shall be improved with grass, ground cover and/or landscaping.

#### **12.03.02. Driveways**

Driveways used for ingress and egress shall not exceed twenty-five (25) feet in width, exclusive of curb returns, except that the width may be increased to forty (40) feet in I-1 and C-2 zones.

#### **12.03.03. Buffer**

All interior sides of a parking lot abutting a residential use shall be enclosed with an opaque, ornamental fence or wall, having a height of not less than five feet (5') nor more than seven feet (7'). Such fence or wall shall be maintained in good condition.

#### **12.03.04. Size**

The size of a parking space for one (1) vehicle shall consist of a rectangular area having dimensions of not less than nine feet (9') by twenty feet (20') plus adequate area for ingress and egress.

## **ARTICLE XIII. NONCONFORMING STRUCTURES AND USES**

### ***Section 13.01.0. Nonconforming Use of Land***

A lawful use of land that existed on the effective date of these regulations which was made nonconforming by the terms of these regulations may continue in such use so long as it remains otherwise lawful, subject to the following provisions:

- A. A nonconforming use shall not be enlarged or increased nor extended to occupy a greater area of land than was occupied on the effective date of adoption of these regulations.
- B. If no structural alterations are made, a nonconforming use of the land may be changed to another nonconforming use of the same or more restrictive classification. In no case shall the use of the land be transferred to a more intensive nonconforming use. For example, a nonconforming commercial use shall not be changed to an industrial nonconforming use.
- C. When a nonconforming use has been discontinued or abandoned for a period of more than six (6) months, the use may not be re-established or resumed. Any subsequent use or occupancy thereof shall comply with the permitted use requirements of the zoning district in which it is located.

### ***Section 13.02.0. Nonconforming Structure***

Where a lawful structure exists on the effective date of adoption or amendment of these regulations that could not be built under the terms of these regulations by reasons of restriction on area, lot coverage, height, setbacks, or other characteristics of the structure or its location on the lot, such structure may continue to be used so long as it remains otherwise lawful, subject to the following provisions:

- A. Upon approval of the Board of Adjustment, such structure may be remodeled or repaired to maintain the premises in a safe and usable condition.
- B. In the event that any structure that is devoted in whole or part to a nonconforming use is destroyed by fire, explosion or other casualty to the extent of more than seventy percent (70%) of the current replacement value immediately prior to such damage or destruction, the structure shall not be restored unless to conform to all requirements of the zoning district in which such structure is located.
- C. No nonconforming structure shall be relocated in whole or in part to any other location on the same or any other lot unless the entire structure will conform to the requirements of the zoning district in which it is being relocated.
- D. A nonconforming structure upon the approval of the Board of Adjustment may be added to and/or enlarged if said addition or enlargement meets the area requirements of the zoning district in which the structure is located, provided said use of the structure is then in conformance with these regulations.

- E. A nonconforming residential structure, upon approval of the Board of Adjustment, may be added to and enlarged if such action does not create any further non-conforming effect or element.
- F. A nonconforming mobile home or manufactured home, when removed, shall not be returned or replaced by another mobile home or manufactured home, except that a mobile home may be replaced with a manufactured home within a nonconforming mobile or manufactured home park.

***Section 13.03.0. Nonconforming Use of Structure***

If a lawful use of a structure or of structure and premises in combination exists on the effective date of adoption or amendment of these regulations that would not be allowed in the district under the terms of these regulations, said lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted in these regulations in the district in which it is located shall be structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended to any portion of a structure arranged or designed for such nonconforming use at the time of adoption or amendment of these regulations, but no such use shall be extended to occupy any of the site outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment shall determine that the proposed use is equally appropriate to the district as the existing nonconforming use and that it is not of greater intensity.
- D. Any nonconforming use, once changed to a conforming use, shall conform to the regulations for the district in which such structure is located and all new uses shall be conforming uses.
- E. When a nonconforming use of a structure or a structure and premises in combination is discontinued or abandoned for a period of six (6) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the requirements of the district in which it is located.

## **ARTICLE XIV. AMENDMENTS TO ZONING CODE AND MAP**

### ***Section 14.01.0. General***

This code may be amended by changing the text, the Official Zoning Map, or both in accordance with the procedures prescribed herein.

### ***Section 14.02.0. Requests for amendments***

The following may initiate a request to amend this Code:

- A. A member or members of the City Council.
- B. A member or members of the Planning Commission.
- C. The owner of a property or his/her appointed agent.

### ***Section 14.03.0. Amendments initiated by the City Council***

Amendments by the City Council may be made in the following manner.

- A. The City Council may refer a request for amendment to the Planning Commission to be considered in accordance with the procedures outlined in Section 14.04.0, below.
- B. The City Council may amend this Code in accordance with the provisions of § 14-56-423 of the Arkansas Code, Annotated when an emergency exists which threatens the health, safety, welfare, or morals of the citizens of the City. An amendment may be made by ordinance with approval of 2/3 of the City Council.

### ***Section 14.04.0. Amendments initiated by the Planning Commission***

Amendments initiated by the Planning Commission may be made by the following procedures.

- A. The Planning Commission may consider amendments or additions to the Zoning Code.
- B. If the proposed amendments are not consistent with the comprehensive plan, the Planning Commission must first consider and adopt any necessary changes to the plan.
- C. The Planning Commission will hold a public hearing to consider amendments to the Zoning Code and amendments to the comprehensive plan, if required.
- D. Notice of such hearing shall be published at least one time not less than fifteen (15) days prior to the date of the public hearing in a newspaper of general circulation in the City of Brookland.
- E. Changes in zoning classifications initiated by the Planning Commission shall be considered comprehensive changes affecting the entire city and notice to individual property owners shall be not be made unless by Planning Commission decision. The Planning Commission shall make a map and/or documents indicating the proposed

changes available in City Hall for review by interested citizens and property owners at least 15 days prior to the public hearing at which the changes will be considered.

- F. Following the public hearing, the proposed amendments may be recommended as presented, or in modified form, by a majority of the entire Planning Commission.
- G. Following its adoption of the amendments of the Zoning Code or adopted plans, the commission shall certify adopted plans or recommended ordinances and regulations to the City Council for its adoption.

**Section 14.05.0. Amendments Initiated by Property Owners**

Amendments by property owners may be made in the following manner.

- A. An application for amendment shall be filed at the main desk in City Hall.
- B. The application for a Zoning Map Amendment shall contain the following information:
  - 1. Name and address of applicant.
  - 2. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the Zoning Map Amendment is proposed.
  - 3. Address and legal description of property.
  - 4. A map of the subject property, delineating:
    - a. the dimensions of property;
    - b. approximate location of buildings with appropriate dimensions;
    - c. land uses of adjacent properties.
    - d. A vicinity map of sufficient clarity to allow location of the property for which a re-zoning request is located.
    - e. The application shall be accompanied by the prescribed fee.
- C. Hearing on Application

Upon receiving the application, the Administrative Official shall set a date for a public hearing.

Notice of such hearing shall be published at least one time at least fifteen (15) days prior to the date of the public hearing in a newspaper of general circulation in the City of Brookland. The applicant shall bear the cost of such advertising.

Notice of such hearing shall be given by posting a sign on the property involved by the applicant at least fifteen (15) days prior to the hearing. Posting of the sign by the prescribed time shall be the responsibility of the applicant.

At least seven (7) days prior to the public hearing, the applicant must provide proof of publication that the required public notice has appeared in a newspaper of general circulation at least fifteen (15) days prior to the public hearing.



The applicant shall then be placed on the Planning Commission agenda for the meeting on which the public hearing is to be held.

D. Finding of Fact

Within thirty (30) days following the public hearing, the Planning Commission shall make a specific finding as to whether or not the change is consistent with the objectives of the Zoning Code, and the Plans adopted by the Planning Commission. The Planning Commission shall approve or deny the amendment application. If denied by the Planning Commission, the application will not be heard by the City Council unless the decision is appealed by the applicant.

E. Authorization by City Council

Any amendment will require a two-thirds (2/3) vote by the City Council for approval by ordinance.

F. Effect of Denial of Amendment

No application for an amendment which has been denied wholly or partly by the City Council shall be resubmitted for a period of one (1) year from the date of said denial, except upon decision by the Planning Commission if substantial changes in conditions have occurred. A change of ownership of the subject property will not be deemed a substantial change of conditions.

## **ARTICLE XV. CONDITIONAL USES**

### ***Section 15.01.0. Purpose***

Certain uses may or may not be appropriately located within various districts throughout the City of Brookland due to their unusual or unique characteristics of operation and external effects. Given their unusual character, special consideration must be given each application so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. The uses listed under the various districts herein as "conditional uses" are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; however, the nature of such uses makes it desirable that they be permitted to locate within the district.

### ***Section 15.02.0. Application for Conditional Use Permit***

An application for a Conditional Use Permit shall be filed with the Planning Commission. The application shall contain the following information and include the following documents:

- A. Name and address of the applicant
- B. Statement that the applicant is the owner or the authorized agent of the owners of the property for which the Conditional Use is proposed.
- C. Address and legal description of the property.
- D. Maps of the property as follows:
  - 1. A vicinity map to scale showing property to be re-zoned clearly outlined in the center of a circle with a radius of one-quarter mile.
  - 2. A paper copy of the plot plan or site layout of the subject property to scale and clearly dimensioned, showing the zoning of adjacent properties and, if applicable, building locations along with provisions for parking, loading and unloading, circulation, access, landscaping and screening.
- E. The application shall be accompanied by the prescribed fee as indicated in Schedule of Fees, and the anticipated cost of publication of notice.

### ***Section 15.03.0. Hearing on Application and Notice Requirements***

- A. Upon receipt in proper form of the application, the Administrative Official shall fix a date for a public hearing on the proposed Conditional Use within thirty (30) days of the filing of the application.
- B. Notice of such hearing shall be published at least one time at least fifteen (15) days prior to the public hearing in a newspaper of general circulation in the City of Brookland.
- C. The cost of the publication of the notice shall be paid by the Applicant.

- D. The applicant shall post a suitable and pertinent sign on the property involved giving notice of such hearing not less than fifteen (15) days prior to the hearing.

**Section 15.04.0. Finding of Fact**

For the Planning Commission to approve an application for a proposed Conditional Use, a majority of the Commission must find that each of the following facts exist with respect to the application.

- A. The establishment, maintenance, or operation of the proposed Conditional Use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- B. The proposed Conditional Use will not harm other property in the neighborhood;
- C. The establishment of the Conditional Use will not impede the normal or orderly development and improvement of the surrounding properties;
- D. The proposed land use is compatible with other area properties;
- E. The proposed Conditional Use is in conformance with all off-street parking and loading requirements; and ingress and egress, and pedestrian ways are adequate;
- F. Landscaping and screening of the proposed Conditional Use shall be in accordance with this Code;
- G. Proposed Conditional Use signs shall be in accordance with this Code;
- H. Open spaces located on the proposed Conditional Use shall be maintained by the owner/developer;
- I. The size and shape of the site, including size. Shape and arrangement of proposed structures is in accordance with this Code;
- J. Safeguards limiting noxious or offensive emissions, including lighting, noise, glare, dust, and odor have been addressed in the proposed application.

**Section 15.05.0. Conditions of Conditional Use**

The Planning Commission may include such conditions or restrictions upon the construction may include such conditions or restrictions upon the construction, location, and operation of a Conditional Use, as deemed necessary to secure the general objectives of this Code.

- A. Violation of any condition imposed hereunder shall constitute grounds for revocation by the Planning Commission of the Conditional Use Permit.
- B. Changes to the use of property not covered by the original Conditional Use Permit shall require approval of a new Conditional Use Permit.

***Section 15.06.0. Deadline for Planning Commission Decision***

Within thirty (30) days after the close of a public hearing on a proposed conditional Use, the Planning Commission shall approve or deny the application.

***Section 15.07.0. Effect of Denial of a Conditional Use***

No application for a Conditional Use Permit which has been denied wholly or partly by the Planning Commission shall be resubmitted for a period of one (1) year from date of said denial, unless the Planning Commission finds that a substantial change in conditions has occurred.

***Section 15.08.0. Lapse of a Conditional Use Permit***

A Conditional Use Permit granted hereunder shall lapse and become void:

- A. The permit for any use that has been discontinued for a period of greater than 120 days shall be considered invalid and revoked. Future use of the property must comply with the provisions of the underlying zoning district until a new Conditional Use Permit is obtained.
  
- B. In the case where any of the specific terms and conditions of a conditional use permits are violated, ignored, or otherwise not observed the Administrative Official may revoke such permit. A 30-day written notice using certified mail shall be addressed to the applicant indicating the nature of the non-compliance and the applicant's right to file an appeal to the Board of Adjustment. If no appeal is filed within the 30-day period, and the non-compliance has not been corrected within 45 days of receipt of the written notice, the permit shall be revoked. Revocation shall be immediate and shall prevent use of the property in a general manner as specified within the original permit. The property shall revert to its use status prior to issuance of the conditional use permit.

## **ARTICLE XVI. BOARD OF ADJUSTMENT**

### ***Section 16.01.0. Organization***

- A. A Board of Adjustment is hereby established to consist of the members of the Planning Commission.
- B. All members of the Board shall be residents of the City of Brookland.
- C. No more than 1/3 of the members of the Board shall hold an elective office in the city government.
- D. The officers of the Planning Commission shall hold the same offices in the Board of Adjustment.

### ***Section 16.02.0. Meetings and Hearings***

The Board of Adjustment shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions. Each session of the Board of Adjustment is a public meeting and public notice of the meeting must be published in a newspaper of general circulation in the city, at least one (1) time seven (7) days prior to the meeting.

### ***Section 16.03.0. Powers and Duties***

- A. The Board shall hear appeals from the decision of the Administrative Official in respect to the enforcement and application of said Code; and may affirm or reverse, in whole or in part, any decision of the Administrative Official.
- B. The Board shall hear requests for Variances from the literal provisions of the Zoning Code in instances where strict enforcement of the Zoning Code would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such Variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the Zoning Code.
- C. The Board of Adjustment shall not permit as a Variance, any use in a zone that is not permitted under the Code.
- D. The Board of Adjustment may impose conditions in granting of a Variance to insure compliance and to protect adjacent property.

### ***Section 16.04.0. Appeals***

A decision of the Board of Adjustment may be appealed to a court of record having jurisdiction in Craighead County, Arkansas.

### ***Section 16.05.0. Procedure for Variance Applications***

- A. Application for Variance

An application for a Variance shall be filed with the Administrative Official. At the time of filing, the applicant shall provide the application fee and the anticipated cost of publication and notice. The application shall contain the following information and include the following documents:

1. Name and address of applicant.
2. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the Variance is proposed.
3. Address or description of the property.
4. A list of the names and addresses of owners of all adjoining properties.
5. A map of the subject property, delineating:
  - a. the dimensions of property;
  - b. approximate location of buildings with appropriate dimensions;
  - c. land uses of adjacent properties.

**B. Hearing on Application**

1. Upon receiving the application, the Board of Adjustment shall hold a public hearing on the proposed Variance within 30 days.
2. Notice of such hearing shall be published by the City at least one time not less than seven (7) days prior to the public hearing.
3. The cost of the publication of the notice shall be paid by the applicant.

**C. Finding of Fact**

For the Board of Adjustment to approve an application for any proposed Variance, a majority of the entire Board must find that each of the following facts exist with respect to the application:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, the strict letter of this Zoning Code would result in an undue hardship to the owner, as distinguished from a mere inconvenience.
2. The conditions causing the need for a Variance are unique to the property and are not applicable, generally, to other property within the same zoning classification.
3. The alleged difficulty or hardship is caused by this Code and has not been created by any persons presently having an interest in the property or by any predecessor in title.
4. The granting of the Variance will not harm the public welfare, other property, or improvements in the neighborhood in which the property is located.

5. The proposed Variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood;
6. The proposed Variance complies with the spirit and intent of restrictions imposed by this Code.

D. Conditions of Variances

The Board of Adjustment may require such conditions or restrictions upon the construction, location, and operation of a Variance, as deemed necessary to secure the general objectives of this Code. Such conditions or restrictions may include, but shall not be limited to, provisions for the protection of adjacent property, the expiration of said Variance after a specified period of time, and off-street parking and loading requirements.

E. Deadline for Board of Adjustment Decision

Within thirty (30) days after the close of the public hearing, the Board of Zoning Adjustment shall make a written finding of fact and submit its decision to the Administrative Official.

F. Effect of Denial or a Variance

No application for a Variance that has been wholly or partly denied by the Board of Adjustment shall be resubmitted within a period of one (1) year from date of said denial.

G. Lapse of Variance

A Variance granted hereunder shall lapse and become void:

1. Where no building or construction is involved, approvals for the use of the property for which the Variance is issued shall expire within six (6) months if not begun.
2. Where buildings or construction is involved, if a building permit for the construction tied to the Variance is not issued within six (6) months or completed within two (2) years, the approvals shall expire.

## ARTICLE XVII. DEFINITIONS

For the purpose of interpreting these regulations, words used in the present tense shall include the future tense; words in the singular number include the plural; and words in the plural number include the singular, except where natural construction of the writing indicates otherwise.

The word “shall” is mandatory and not directory. The word “person” includes a firm, partnership, or corporation as well as an individual.

Where words have not been defined in these regulations, the Webster’s Collegiate Dictionary definition shall prevail.

For the purpose of interpreting these regulations, certain terms and words are to be used and interpreted as defined hereinafter.

Abutting:	Having property of district lines in common. Since zoning district lines fall to the centerline of a street, alley or waterway, lots which appear physically separated abut at said district line.
Access:	The way or means by which a piece of property is approached or entered.
Accessory Buildings And Uses:	An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in these regulation) located on the same lot as the use of the main building or principal use of the land. An accessory use is one which is clearly incidental to or customarily found in connection with and on the same lot as the main use of the premises. When “accessory” is used in the text, it shall have the same meaning as accessory use.
Addition:	Any construction which increases the size of a building such as a porch, attached garage or carport, or a new room or wing.
Alley:	A permanent public service way, which affords only a secondary means of access to abutting property.
Apartment:	See Dwelling, Multiple.
Authorized Agent:	A person or persons authorized by the landowner to act in his behalf.
Buffer:	A strip of land lying parallel to adjacent to a property line common to a dissimilar use of a more restrictive nature, upon which is placed some form of screening, such as fencing or vegetation. The purpose of a buffer is to minimize the adverse impacts of a more intense land use on a less intense land use.



Buildable Area:	The space remaining for construction on a lot after the minimum area requirements (yards, setbacks, and coverage) have been met.
Building:	Any structure including a roof supported by walls designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattel or property and forming a construction that is safe and stable; the word building shall include the word structure.
Building, Attached:	A building that shares a continuous wall, roof, floor, or other structural element with another adjacent building.
Building, Detached:	A building having no wall, roof, floor or other structural element in common with another building.
Building, Coverage:	The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.
Building, Façade:	The area of a single building elevation which encompasses all of such elevation from ground or grade level to the top, and from one side to the other side of the building.
Building, Height:	The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.
Building, Line:	A line, usually fixed parallel to a lot line, beyond which a building cannot extend under the terms of the regulations. It is equivalent to the setback or yard line.
Building, Nonconforming:	An existing building which fails to comply with the regulations (for height, size, area, yards and location) set forth in these regulations applicable to the district in which this building is located.
Building, Principal:	A building in which is conducted the main or principal use of the lot on which said building is situated.
Certificate of Occupancy:	Official certification that a premise conforms to provisions of the regulations (and Building Code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless a certificate is issued, a structure cannot be occupied.
City:	The City of Brookland, Arkansas.

Child Care Facility:	<p>For the purposes of these regulations, a “child care facility” is any facility which provides training, education or supervision for any unrelated minor child for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation. Such a facility may or may not be licensed by the State. This definition shall not include:</p> <ol style="list-style-type: none"> <li>1. public and private schools organized, operated or approved under the laws of this State;</li> <li>2. custody of children fixed by a court of competent jurisdiction;</li> <li>3. children related by blood or marriage within the third degree of the custodial persons; or,</li> <li>4. churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or engaged in church activities;</li> <li>5. businesses that set aside a portion of their facility for the care and supervision of the children of employees. Such a service shall be incidental to the primary operations of the business and be provided exclusively as a service and convenience to employees of the business.</li> </ol>
Child Care Center:	<p>A commercially designed and operated facility which receives six (6) or more children for care, training, education, or supervision for any unrelated minor child, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the services offered by it. This also includes nurseries, nursery schools, day care centers and kindergartens. Such a facility is licensed by the State.</p>
Child Care, Residential Day Care:	<p>A situation, arrangement or agreement by which one or more persons care for six (6) to sixteen (16) children from more than one family and are cared for in a caregiver’s own family home or in some other suitable family type residence.</p>
Child Care, In-Home Day Care:	<p>A situation in which the resident of a home cares for five (5) children or less.</p>
Clinic, Dental/Medical:	<p>A facility for the examination and treatment of ill and afflicted human out patients; provided however, that patients are not kept overnight except under emergency conditions.</p>
Commission:	<p>The Brookland Planning Commission.</p>

Conditional Use:	Uses permitted in zones where they are specifically listed as conditional uses and are subject to special conditions as determined by the Planning Commission and/or the City Council as outlined in Article III of these regulations.
Corner Lot:	A lot located at the intersection of two streets not sharing the common centerline.
Day Care Facility:	Synonymous with Child Care Facility.
District Zoning:	Any section, sections, or divisions of the City for which the regulations governing the use of land, density, bulk, height and coverage of buildings and other structures are uniform.
Drive In, Commercial Use:	Any retail commercial use providing considerable off street parking and catering primarily to vehicular trade such as drive in restaurants, drive in theaters, and similar uses.
Dwelling:	Any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers, mobile homes, or travel trailers. The “living quarters” must contain spaces for bathing, sleeping and meal preparation and eating.
Dwelling, Single-Family:	A dwelling designed to be occupied by one family.
Dwelling, Two-Family:	A dwelling designed to be occupied by two families living independently of each other.
Dwelling, Multiple-Family:	A dwelling designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels or resort type hotels.
Dwelling, Townhouse/Row House:	Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.
Easement:	A right of way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usage given by the owner of land to another party.
Administrative Official:	That individual designated by the City to enforce the requirements set forth in these regulations.
Family:	One or more persons related by blood or marriage, including adopted children, or a group of not to exceed four (4) persons not all related by blood or marriage, occupying premises and living as a single unit. A family may include domestic servants employed by said family.

Fence:	A man made barrier constructed to provide privacy or visual separation between one ownership and another.
Floor Area:	The total area of all floors of a building measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches and balconies.
Garage, Private:	An accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupant and their guests of the building to which it is accessory.
Garage, Public or Repair:	A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.
Gasoline or Service Stations:	Any building, structure, or land used primarily for the dispensing, sale of fuels, oils, accessories, or minor maintenance and repair services but not including painting, major repairs, or automatic washing facilities.
Home Occupation:	Any use customarily conducted entirely within a dwelling and carried on principally by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no display, no stock in trade, no outside storage of equipment, no commodity sold upon the premises and not more than two persons are engaged in such occupation. Such uses as barbershop, beauty parlor, tearoom, tourist home, animal hospital and dancing school shall not be deemed to be home occupations. Section 5.07.0 contains the requirements governing home occupations.
Hospital:	An institution providing health services primarily for human in patient or medical or surgical care for the sick or injured, including related facilities such as laboratories, out patient departments, training facilities, central service facilities and staff offices which are an integral part of the facilities.
Hotel:	A building or part thereof occupied as a more or less temporary abiding place for individuals in which the rooms are usually occupied singularly for hire and in which rooms no provisions for cooking is made, and in which building there is usually a kitchen and public dining room for the accommodation of the occupants and guests. This definition does not include an auto or trailer court or camp, sanatorium, hospital asylum, orphanage, or building where persons are housed under restraint.
Kennel:	Any lot or premises on which four (4) or more dogs, more than six (6) months of age are kept for personal use or boarding.

Loading Space (Off Street):	Any unobstructed, hard-surface area no part of which is located in any street or public right of way and the principal use of which is for the standing, loading, or unloading of trucks and trailers.
Lot:	A parcel of land, legally defined in a recorded deed or recorded plat, fronting on a public dedicated right of way or other approved private drive. Said lot shall establish one building site.
Lot Area:	The total horizontal area included within the lot.
Lot Coverage:	The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot.
Lot Depth:	The mean horizontal distance between the front line and the rear lot line, or the distance between the midpoint of the rear lot line.
Lot, Double Frontage:	A lot having frontage on two non-intersecting streets.
Lot, Interior:	A lot other than a corner lot.
Lot Line, Front:	The property boundary line that runs common with and adjacent to any street frontage or right of way separating such lot from such street; in the case of a double frontage lot or a corner lot, each line separating such lot from the street shall be considered a front lot line.
Lot Line, Rear:	That property boundary line which is generally parallel to and most distant from the front line of the lot.
Lot Line, Side:	A lot line other than a front or rear lot line.
Lot Line:	The property boundary lines.
Lot of Record:	A parcel of land that is a lot in a subdivision recorded on the records of the Craighead County Recorder's Office, or that is described by a metes and bounds description.
Lot Width:	The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; measurements shall be made at the front building line.
Manufactured Home:	A detached single family dwelling unit fabricated on or after June 15, 1976, in an off of site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is build in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This Code means the standard for construction, design and

performance of a manufactured home as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, as mandated in the United States of America and as administered by the United States Department of Housing and Urban Development.

- Mobile Home:** A movable or portable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, which is larger than three hundred twenty (320) square feet, and is designed to be used as a year round residential dwelling unit, and/or which does not bear a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. A mobile home which is to be located in a mobile home park shall meet all of the specifications and standards as required for such mobile home parks and each individual mobile home must be anchored in compliance with the design load requirements of the Building code of the City of Brookland, Arkansas.
- Motel:** A motel or motor court is a business comprised of a building or group of buildings so arranged as to furnish overnight accommodations for transient guests.
- Nonconforming Building/Structure:** Any building or structure lawfully existing on the effective date of these regulations, as amended, which does not comply with all of the requirements of these regulations for governing parking or bulk and area requirements for the zoning district in which such building or structure is located; provided, however, any building containing more than one (1) dwelling unit in addition to the number permitted by the district requirements in the district where it is located shall be deemed to be a nonconforming use rather than a nonconforming building. (See Article X.)
- Nonconforming Use:** Any use lawfully being made of any land, building or structure, on the effective date of these regulations, as amended, which does not comply with all the requirements of these regulations governing use for the zoning district in which such land, building or structure is located. (See Article X.)
- Nursing Home:** Any premises where more than three (3) persons are lodged and furnished with meals and nursing care.
- Open Space:** Any unoccupied space open to the sky on the same lot with the building and occupied by no structure or portion of structure whatever.
- Parking Lot:** An off street facility including parking spaces and drives and aisles for maneuvering, and providing access and for entrance

and exit, developed in a way to accommodate the parking of vehicles.

Parking Space:	An off street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passageways and driveways, and having direct access to a street or alley. It shall measure not less than 9' X 20'.
Permitted Use:	Those uses specifically listed in these regulations as allowed without any further review by the planning commission or city council.
Pet Shop:	A commercial operation in which small domestic pets and supplies are sold. This does not include outside boarding of such animals. The operation shall meet all City, County and State Health Department requirements as to safety, design, facilities, equipment, and other features, and the business shall be operated in a manner that will not adversely affect other properties and uses in the area.
Plan:	A fully dimensioned drawing which provides for all data related to a development of land and certified as to accuracy by a land surveyor or engineer.
Plat:	An engineering drawing which provides for all data related to a development of land and certified as to accuracy to a land surveyor or engineer.
Principal Use:	The use which fulfills the primary function of an establishment, institution, household, or other entity.
Public Utility:	Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under regulations to the public, electricity, gas, telephone, television cable, telegraph, transportation, drainage, water, or sanitary sewage.
Reclassification:	An amendment to or a change reflecting a modification of the zoning district boundary map.
Residence:	A building or part of a building containing one or more dwelling units or rooming units. However, residences do not include:  (a) Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or  (b) Dormitories, fraternity or sorority houses, monasteries, or convents, or similar establishments containing group living or sleeping accommodations, or

- (c) Nurses' residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility building or portions of buildings used for community facility uses.

Right of Way, Public:	An area of land deeded, reserved by plat, or otherwise accepted and maintained by the City, the County or the State for public use.
Screening:	See Buffer.
Setback:	Distance between the lot line and the building line.
Sign:	A sign is a structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature an announcement, direction, advertisement, or other attention directing device. A sign shall not include a similar structure or device located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant, or insignia of any state, city or other political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.
Site Plan Review:	The process whereby the Planning Commission and staff review the site plans and maps of a developer to assure that they meet the stated purposes and standards of these regulations.
Story:	That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half story is a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of each story.
Street:	Any public or private thoroughfare, which affords the principal means of access to abutting property.
Structure:	Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground.
Structural Alterations:	Any change in the supporting members of a building, such as bearing wall or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.



Use:	A purpose to which land is committed.
Variance:	An exception from the strict application of the provisions of these regulations.
Yard, Front:	The required area of open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and nearest point of the footing.
Yard, Rear:	The required area of open space 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 building. The building shall be measured from the footing.
Yard, Side:	The required area of open space between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building, measured from the footing.
Yard, Exterior:	Any yard which is adjacent to or parallel to a public or private right of way.
Yard, Interior:	Any yard which does not run adjacent to or parallel with a public or private right of way.
Zoning District:	A section of the city designated in the text in which requirements for the use of land and building and development standards are prescribed.
Zoning District Boundary:	That boundary which separates unlike zoning districts.