

ZONING CODE ORDINANCE #153

§ (1) AMENDED – Pg. 15 - Residential Estates (F) 5. - 8/13/19

§ (2) AMENDED – Pg. 25 - General Standards (3) (A) - 8/13/19

WHEREAS, Arkansas Statutes authorize cities of the first and second class to establish zones limiting the character of buildings that may be erected therein;

WHEREAS, This Ordinance shall be known, cited, and referred to as the City of Garfield Zoning Ordinance;

WHEREAS, This Ordinance is adopted for the following purposes: To provide for the citizens of the City of Garfield adequate light, pure air and safety from fire and other dangers, to conserve the value of land and buildings, to lessen or avoid congestion of traffic in the public streets and to promote the public health, safety, comfort, convenience, morals and general welfare; to protect the character and the stability of the residential, business and manufacturing areas within the City of Garfield and to promote the orderly and beneficial development of such areas.

WHEREAS, The City Council of Garfield wishes to establish restrictions in order to attain these objectives by adopting a Zoning Ordinance which will revise the districts into which the City is divided, the restrictions upon the uses to which land and buildings may be devoted, the restrictions upon the location and height of buildings, the restrictions upon the intensity of the use of land and buildings, the requirements for yards, the requirements for off-street parking and loading facilities, the requirements for landscaping, the provisions for administration and enforcement of the Code, the penalties for violation of the Code, the procedure, powers and duties of the Board of Adjustment and such other provisions as shall be prescribed at future dates.

WHEREAS, The City Planning Commission of Garfield, created by Ordinance Number 30 enacted June 9, 1992, in conformity with then current Arkansas Statutes as enacted by the Arkansas General Assembly and being amended from time to time, having made a comprehensive study of the present conditions and future growth of the City and its neighboring territory, finds these regulations would promote, in accordance with present and future needs, the public health, safety and general welfare, order, convenience, efficiency and economy in the process of development, convenience, population distribution, good civic design and arrangements, adequate provisions for public utilities and other public requirements.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARFIELD, ARKANSAS THAT THE FOLLOWING SHALL BE THE GARFIELD ZONING ORDINANCE:

SECTION 1: DEFINITIONS

The following definitions shall be used in the interpretation hereof. Words used in the present tense include the future tense, and words in the singular include words in the plural. The word "used" shall include arranged, designed, constructed altered, converted, rented, leased, or intended to be used. The word "shall" means mandatory, and the word "may" means permissive. All terms not otherwise defined in this Ordinance shall have their common and ordinary meaning.

Accessory Buildings: A subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land.

Accessory Uses: Is a use that is customarily incidental, appropriate, and subordinate to the principal use of land and buildings, and located upon the same lot therein.

Alley: A minor public way dedicated to public use for utility easements and vehicular access to the back or side of lots abutting a street.

Apartment: A room or suite of rooms within a building with separate cooking, bathing, and sleeping facilities and intended as a single dwelling unit. Structures containing three (3) or more dwelling units are considered apartments.

Apartment Complex: More than one structure containing three (3) or more dwelling units are considered an apartment building/complex.

Area: The amount of land surface in a lot or parcel of land.

Agricultural: The tilling of the soil, the raising of crops, forestry, horticulture and gardening, including the keeping or raising of animals, fowl, and riding horses, and including sale of crops, dairy and horticultural farm products incidental to the operation of a farm.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or property of any kind. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

Building Coverage: Is the land area covered by all buildings on a lot, excluding caves.

Building Height: Is the average vertical distance from the finished lot grade to the highest point of the building.

Building Line: Is a line or lines, established by the zoning ordinance, designating the area within which buildings may be erected.

Building & Farm Supply Company: Any establishment that sells hardware, tools, lumber and other supplies related to building, farm, or home care.

Cemetery: A place for burial of human or animal remains, excluding crematoriums.

Church: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship.

Clinic: A facility for diagnosis and treatment of medical, chiropractic, dental or psychological outpatients, and which may be used by one or more practitioners.

Clubs and Lodges: An association of persons for the non-profit promotion of some common purpose, such as charity, fellowship, or something similar.

Concentrated Animal Feeding Operations: Concentrated Animal Feeding Operations are defined as areas where animals are kept and raised in confined situations. Animal Feeding Operations congregate animals, feed, manure and urine, dead animals and production operations on a land area where more than two (2) head of cattle or four (4) head of sheep or goats are located on one (1) acre. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed on fields or grazing on rangeland.

Condominium: Is a building or complex of buildings containing a number of individual dwelling units with individual and discrete owners

Contour Intervals: Topographic map lines which connect points of equal elevations.

Convalescent Home: A health care facility, including rest homes and nursing homes, where persons are housed and furnished with meals and continuing nursing services are provided pursuant to State laws and fire codes, and in accordance with and licensed by appropriate State agencies

Day Care Center: A commercial establishment where childcare services are provided pursuant to State laws and fire codes, and in accordance with and licensed by appropriate State agencies.

Day Care Family Home: A home where day care services are provided. The operator shall reside in the structure, and the facility must conform to all codes and regulations, including Federal, State and Local, applicable thereto, with the most restrictive regulations prevailing.

Dead-End Street: A street having one end open to traffic and being permanently terminated at the opposite end.

Dedication: Land and improvement offered to the city, county, or state and accepted by them for public use, control, and maintenance.

Developer: A person, firm, or entity undertaking to develop or subdivide.

Development: Any division of land which results in the need for access to lots and tracts; the extension or provision of utilities; the subdividing of land into lots and blocks; and other significant physical changes or alterations to the land.

Development Plan: A drawing showing all proposed improvements to a tract of land such as streets, parking lots, buildings, drives, signs, utilities, drainage, grading, and by size and locations.

District: A portion or section of the City within which uniform zoning regulations apply.

Drive-in Establishments: A facility where services or products are delivered to persons in vehicles by means of a drive-up window or carhop.

Dwelling: A building or portion thereof used exclusively for residential occupancy, including one-family, two-family, and multiple dwellings but not including motels, lodging houses, boarding houses, tourist homes, or convalescent homes.

Dwelling, Attached: A dwelling that is joined to another dwelling at one (1) or more sides by a wall or walls.

Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot.

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

Dwelling, Single-Family: A residential dwelling unit that is designed for or occupied by one family only.

Dwelling, Two-Family: A building designed for or occupied exclusively by two (2) families (also referred to as a duplex).

Dwelling Unit: A room or group of rooms located within a dwelling forming a habitable unit for one family.

Easement: A grant by the land owner to the public, a legal entity or persons of the use of a strip of land for a specific purpose.

Engineer: A registered professional engineer, registered in Arkansas and who is qualified to design streets, water and sanitation facilities, to supervise the construction of the same and perform general subdivision services.

Family: Persons related by blood, adoption, or marriage or a group of individuals who need not be related by blood, adoption, or marriage living together and subsisting in common as a single non-profit housekeeping unit.

Farm: A parcel of land used for growing or raising of agricultural products including related structures thereon

Frontage: That edge of a lot bordering a street.

Kennel: An establishment, in which domesticated animals are housed, boarded, bred or reared on a commercial basis.

Land: Any ground, soil or earth including all components thereof.

Land Surveyor: Is a person who is registered in the State of Arkansas to make land surveys.

Lot: A portion of a subdivision or other tract of land intended as a unit for transfer of ownership or for development.

Lot, Corner: A lot with frontage on two (2) streets at their intersection.

Lot, Width: The average of the horizontal distances of the front and rear lot lines.

Lot, Split: A division of a lot or tract of land into two (2) parts for the purpose of transfer of ownership or development.

Manufactured Home: A detached single-family dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation, or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the 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 moveable 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 320 square feet, and designed to be used as a year-round residential dwelling unit. 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 must be anchored in compliance with the design load requirements of the building code of the City of Garfield, Arkansas. A mobile home which is to be placed in an approved mobile home subdivision must be placed upon poured footings and piers or perimeter foundations, constructed to building code specifications and completely enclosed (no exposed piers); and all transport elements such as wheels, axles, trailer or transport hitches and exterior light systems attached for highway usage must be removed. Furthermore, all such mobile homes shall provide on-site an all-weather off-street parking space, and the placement of the mobile home must be such that it conforms with all bulk and area requirements of the zoning district.

Mobile Home Park: Land or property containing a minimum of two acres which is used or intended to be used or rented for occupancy by mobile homes or moveable sleeping quarters of any kind.

Natural Area: An area that is substantially undisturbed by development.

Nonconforming, Structure or Use: A structure or land use which existed lawfully on the date that this Code or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations in the Code or amendment thereof.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Parcel: A tract of land separately designated and delineated by identifiable, legally recorded boundary lines.

Park: Is an area open to the general public and reserved for recreational, educational or scenic purposes.

Parking, Area: An area of land used or intended for off-street parking facilities for motor vehicles.

Person: Is any individual, corporation, association, firm, partnership or legal entity of any kind.

Plan, Comprehensive: A document, or series of documents, that serves as a guide for making land use changes, preparation of capital improvement programs and the rate, timing, and location of future growth. It is based upon establishing long-term goals and objectives to guide the future growth of a city.

Plan, Master Street: The Plan made and adopted by the Planning Commission and accepted by the City Council classifying certain streets within the planning area jurisdiction as arterial or collector streets.

Planning Commission: Is the Planning Commission for the City of Garfield, Arkansas.

Plat, Final: A complete and exact subdivision plat, prepared for official recording as required by statute, to define land boundaries and dedicated streets and other improvements, executed by the owner or owners of said land.

Plat, Preliminary: A formal plan showing outside lot dimensions, indicating prominent existing features of a tract and its surroundings, the general layout of the proposed subdivision.

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

Property Line: The legally recorded boundary of a lot, tract, or other parcel of land.

Protective Covenants: Land and land-use restrictions established by the subdivision developer.

Right-Of-Way: The land opened, reserved or dedicated as a street, pedestrian way, or for other public or private use.

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

Sign: Any display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing, which is designed or intended to be used to advertise, inform, attract attention or convey information when the same is placed out of doors in view of the general public.

Sketch Plan: An informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings, with the general layout of a proposal.

Story: The horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.

Street: A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel which may be used to provide space for sewers, public utilities, trees, and sidewalks.

Street, Arterial: A street of considerable continuity which serves or is intended to serve as the principal traffic way between separated areas of a district and which is the main means of access to the primary street system or expressways.

Street, Collector: A street which, in addition to serving abutting lots or tracts, intercepts minor streets, connects with community facilities, and carries neighborhood traffic to the major arterial street system.

Street, Frontage: A minor street which is generally parallel to and adjacent to a major highway or railroad right-of-way and which provides access to abutting lots or tracts and protection from through traffic.

Street, Local: A street used primarily to provide access to abutting lots of tracts.

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

Subdivision: A division of a lot or tract of land into three (3) or more lots for the purpose of transfer of ownership for development.

Tract: An area of land which is owned pursuant to one deed.

Use: The specific purpose for which land, sign, structure or building is designed, arranged, intended or for which it may be occupied or maintained, or on which a specified activity, business or operation which may be conducted or performed.

Variance: Is a grant of relief to a person from the literal provisions of any Ordinance/Code in instances where strict enforcement of an Ordinance/Code would cause undue hardship due to circumstances unique to the individual property under consideration. A variance is granted only when it is demonstrated that such action will be in keeping with the spirit and intent of any Ordinance/Code. The Planning Commission of the City of Garfield may impose conditions in the granting of a variance to ensure compliance with existing Code and to protect adjacent property. (Refer to the Procedure Checklist from City Clerk)

Yard: That portion of a lot established by the building lines as minimum open space and intended to be unobstructed and unoccupied by any structure.

Yard, Front: That minimum required open space extending between side lot lines measured from the front lot line to the nearest point of any structure.

Yard, Rear: That minimum required open space extending between side lot lines measured from the rear lot line to the nearest point of any structure.

Yard, Side: That minimum required open space extending from the front yard line to the rear yard line on both sides of any lot, measured from the side lot line to the nearest point of any structure.

SECTION 2: OFFICIAL ZONING MAP

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

a) The Official Zoning Map shall be certified as such by signature of the Mayor, attested by the Recorder/Treasurer. If, in accordance with the provisions of this Code, changes are made in the

district boundaries or other data portrayed on the Official Zoning Map, such change shall be made on said map within thirty (30) days after the amendment has been approved by the City Council.

b) No changes of any nature shall be made in the Official Zoning Map or information shown thereon, except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code, and punishable pursuant to provisions contained herein.

c) Regardless of the extension of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Recorder/Treasurer shall be the final authority as to the current zoning status of property in the City.

d) Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the Code Enforcement Official shall employ the following rules in interpretations thereof. Decisions of the Code Enforcement Official are subject to appeal to the Board of Zoning Adjustment as herein provided.

(1) Boundaries indicated as approximately following the center lines of streets or alleys shall be construed to follow such center lines.

(2) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(3) Boundaries indicated as approximately following platted lot lines shall be construed as following lot lines.

(4) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline.

(5) Boundaries indicated as parallel to or extensions of features indicated above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

(6) Whenever any street, alley, or other public way is vacated or abandoned by action of the City Council pursuant to law, the zoning district boundaries on each side of such street, alley or public way shall be automatically moved to the centerline of the same and all area included therein shall then and henceforth be subject to all appropriate regulations of the extended districts.

SECTION 3: ADMINISTRATION AND ENFORCEMENT

a. The Code Enforcement Official shall be designated by the Mayor, and the Code Enforcement Official shall be responsible for the administration and enforcement of this Code subject to exceptions contained herein. S/he shall utilize proper legal procedures to enter any structure, premises, or land to perform any duty imposed by this Code.

b. If the Code Enforcement Official shall find that any of the provisions of this Code are being violated, s/he shall notify the person occupying or using the premises or structure and the property owner of record, both of whom shall be responsible for the correction of such violation. The notice provided

shall be in writing and shall indicate the nature of the violation and shall set out and order the action necessary to correct it. The notice shall be sent by certified mail with a return receipt requested. S/he shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or changes thereto; discontinuance of any illegal work being done; or s/he shall take any other action authorized by this Code to insure compliance with or to prevent violation of provisions of this Code.

The Code Enforcement Official shall be responsible for initially addressing all questions regarding interpretation and enforcement of this Code. Decisions of the Code Enforcement Official shall be appealable to the Board of Zoning Adjustment and that decision shall be appealable to the City Council. Decisions of said Council shall be subject to appeal to a court of record having jurisdiction and such appeals shall be filed with the court of record no later than thirty (30) days after the written decisions of the City Council.

c. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Code Enforcement Official, who shall record properly such complaint, immediately investigate and take action thereon, as provided by this Code.

d. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements. Whenever these requirements are at variance with the requirements of any other lawfully adopted Code, Statues, rules or regulations, the most restrictive Code, regulations or Statues shall govern. The City shall not be responsible for enforcing deed restrictions or covenants.

e. The owner or tenant of any building, structure, property, or part thereof, and any architect, engineer, contractor, agent, or other person, who willfully commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

f. Violation of the provisions of this Code or failure to comply with any of its requirements shall constitute a misdemeanor. After expiration date indicated by the notice of violation, any person who violates this Code or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than two hundred and fifty dollars (\$250.00). In addition, anyone so convicted shall be responsible for paying all costs and expenses involved in the case, including but not limited to filing fees, attorney's fees, process fees and other costs directly attributable to the cause of action. After the expiration date indicated by the notice of violation, each day such violation continues shall be considered a separate offense. Cases of this nature shall be heard in the Benton County District Court, Rogers Division.

SECTION 4: BOARD OF ZONING ADJUSTMENT

a. A Board of Zoning Adjustment is hereby established, which shall be composed of the Planning Commission as a whole.

b. The Board of Zoning Adjustment shall establish regular meeting dates, adopt rules and procedures for the conduct of its business, make and keep a record of all meetings, and keep a public record of all findings and decisions.

c. Each session of the Board shall be a public meeting with public notice of said meeting published in a newspaper of general circulation in the city one (1) time, at least seven (7) days prior to the meeting.

d. The Board of Zoning Adjustment shall have the following functions:

(1) Hear appeals from decisions of the Code Enforcement Official in respect to the enforcement and application of this Code; and may affirm or reverse, in whole or part, said decision of the Code Enforcement Official.

(2) Hear requests for variances from the literal provisions of this Code in instances where strict enforcement would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of this Code. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted in that zone. The Board may impose conditions in granting of a variance to insure compliance and to protect adjacent property.

e. A variance is authorized only for height, area and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited, or not specifically permitted, shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining district.

f. The Board of Zoning Adjustment shall issue approval of a variance only after finding that:

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or buildings involved and which are not applicable to other lands, structures, or building in the same district.

(2) Literal interpretation of the provisions of this Code would deprive the Applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

(3) The special conditions and circumstances do not result from the actions or proposed actions of the Applicant; and

(4) Granting the variance requested will not confer on the Applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

g. Fees – Fees for change in zoning classification or variance from the zoning code will be governed by the most current City Ordinance setting out such fees.

SECTION 5: GENERAL PROVISIONS

a. No land shall be used or occupied, no structure shall be erected, moved, converted, altered, enlarged, used, occupied, or used for business operations, unless such use is in conformity with the regulations herein prescribed for the district in which such structure or land is located. This provision

shall not be construed to affect any uses of land or structure that existed at the effective date of this Code. Existing non-conforming lots may be utilized in accordance herewith.

b. Open space required by these regulations for a particular structure or use shall not be claimed as open space for another structure or use. No lot, open space, parking or loading space shall be reduced in area or dimension below that required by these regulations, except pursuant to decision of the Board of Zoning Adjustment.

c. Any use of a structure or land lawfully existing or one for which a permit has been lawfully issued at the effective date of these regulations may be continued subject to provisions herein.

d. All structures constructed or occupied in conformance with this Code shall also conform to all other codes and regulations of the City. Also, as a condition of the issuance of a building permit; Applicants shall acknowledge their legal obligation and responsibility to comply with all provisions of the most current Arkansas Fire Prevention Code, which is based on the current International Fire, Building and Residential Codes. The responsibility for compliance with the provisions and requirements of the American's With Disabilities Act, 42 U.S.C. 12101 ("ADA") shall be the responsibility of the Applicant for the permit and the property owner.

e. No structure or planting shall be placed in any yard so that it interferes with the visibility at intersections.

f. Dedication of land for public use of land shall not be a condition for any zoning or conditional use approval.

g. Land annexed into the City of Garfield shall, upon the annexation's effective date, exist with a zoning classification of Agricultural until the property is evaluated and, if appropriate, a more suitable zoning classification is assigned.

h. Off-street parking facilities and off-street loading facilities shall be provided on the site for each use as prescribed herein.

i. Each permitted use or lot shall have access to a public street or to a public road, provided that such may be connected to a public street or to a public road by an easement for access purposes. The access provided by the easement shall be deemed to be acceptable provided that such access is set out in a properly acknowledged easement that has been recorded in the Benton County, Arkansas recorder's office. The access easement shall be at least twenty (20) feet in width.

j. The provisions of these regulations are severable. If any section, paragraph, sentence, or clause shall be declared invalid, the remainder of the regulations shall not be affected.

k. It is expressly understood that all districts provide for the compatible existence of agricultural activities and uses.

l. In the event that any person's real property shall be condemned by or through an eminent domain action initiated by a public agency or municipality and that such action shall result in a reduction of the land area owned by person or entity so affected, the City of Garfield shall rezone a comparable area of land to the same district as that taken by eminent domain provided that the area of real property to be so rezoned shall be an area of land to allow split zoning on one parcel of real property. In the event that the land area affected by such eminent domain action is not of an area to allow split

zoning, the landowner may choose to retain the original zoning of the land or may choose to designate the entire parcel to the zoning of the real property seized by eminent domain. The foregoing shall apply to all land owners who reach a consent agreement with a public agency or municipality to transfer real property to avoid the expense of an eminent domain action and to all land owners whose property is taken by a litigated or disputed eminent domain action.

SECTION 6: NON-CONFORMING STRUCTURES AND USES

a. Continuance of Use

(1) Any lawfully established use of a structure or land, on the effective date of this Code, or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal non-conforming use and may be continued, except as otherwise provided herein.

(2) Any legal non-conforming structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.

(3) Any structure, for which a building permit has been lawfully granted prior to the effective date of this Code, or of amendments hereto, may be completed in accordance with the approved plans. Such building shall thereafter be deemed a lawfully established building.

b. Discontinuance of Use

(1) Whenever any part of a structure or land occupied by a non-conforming use is changed to, or replaced by, a use conforming to the provisions of this Code, such premises shall not thereafter be used or occupied by a non-conforming use, even though the structure may have been originally designed and constructed for the prior non-conforming use

(2) Whenever a non-conforming use of a structure or part thereof, has been discontinued or abandoned for a period of one (1) year or more, such use shall not be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(3) Where no enclosed structure is involved, discontinuance of a non-conforming use for a period of six (6) months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

(4) Any use not authorized by the City of Garfield, in effect at the time this Code becomes effective, shall be discontinued and not re-established, except when such use shall be in conformance with the provisions of this Code.

c. Change of Use

(1) A non-conforming use can be changed to another non-conforming use, only if the use to which it is being changed has been determined by the Planning Commission to be a more appropriate use than the exiting non-conforming use.

d. Repairs and Alterations

(1) Normal maintenance of a non-conforming structure or of a conforming structure containing a non-conforming use is permitted.

(2) Alterations may be made when required by law, or when such alterations will actually result in eliminating the non-conforming use.

(3) No structure partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.

(4) A structure that is non-conforming with respect to yards, height or any other element of the building regulated by this Code, shall not be altered or expanded in any manner which would increase the degree or extent of its non-conformity with respect to the building regulations for the district in which it is located.

e. Damage and Destruction

(1) Restoration or repair of the structure or other structure must be started within a period of six (6) months from the date of damage or destruction, and diligently pursued to completion. Failure to exercise the options herein provided with the time specified shall be considered a voluntary abandonment and structure(s) may be rebuilt and used thereafter only for a conforming use in compliance with provisions of the district in which it is located.

SECTION 7: DISTRICT REGULATIONS

a. Establishment of District

The following zoning districts, which may be referred to by their abbreviations, are hereby established.

(1) Base Zoning Districts:

- Agricultural District
- Residential Estates
- Residential
- Neighborhood Commercial
- Commercial

b. A description of each district follows:

(1) **Agricultural District:**

(a) Description and Intent

The agricultural district is designed to provide for the compatible existence of agricultural activities within the City's corporate boundaries so that agricultural uses are protected as a valuable natural resource and do not unduly disturb the desirable functioning of residential, commercial, industrial or other uses.

(b) Permitted Uses

Agricultural Uses
Residential

(c) Conditional Uses

Commercial

Similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(d) The Planning Commission after review of all materials submitted shall make its decision to whether any proposed agricultural activity is appropriate in the location intended. The Planning Commission may impose such conditions as it deems necessary to protect the health, safety, and general welfare of surrounding property owners.

(e) Minimum Lot Dimensions

Minimum Area	1 acre
Minimum Width at Building Line	120 feet
Minimum Front Setback	30 feet
Minimum Rear Setback	15 feet
Minimum Side Setback	10 feet

Minimum Frontage: One hundred-fifty (150) feet for Agriculture with Dwelling and related structures; Two hundred (200) feet for Churches and Related Facilities; and one hundred (100) feet for Public Facilities.

(2) **Residential Estates:**

(a) Description and Intent

This district is intended for application to those areas of the City where it is deemed necessary and desirable to protect farm and ranch lands, as well as the rural residential environment, and to provide open spaces to protect natural areas, flood plains and watercourses, and to provide for single-family development.

(b) Permitted Uses

Single-Family Residences and Accessory Building and Uses

(c) Conditional Uses

Agricultural related uses (except concentrated feeding operations)

Similar uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(d) Lot Dimensions

Minimum Area 1-acre	Minimum lot Width at Building Line 200 feet
Minimum Front Setback 30 feet	Minimum Side Setback 25 feet

Minimum Rear Setback 25 feet

(e) Parking Requirements

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

(f) Height, Width, & Area Regulations

1. No building shall exceed two and one-half (2 ½) stories, nor shall it exceed thirty-five (35) feet in height.
2. Accessory buildings shall be set back a minimum of fifteen (15) feet from the side or rear lot lines.
3. Each principal structure shall have a minimum total dimension on each side of twenty-four (24) feet, and the entire twenty-four (24) feet shall be finished on a permanent foundation.
4. Only one primary dwelling unit per lot, regardless of lot size, shall be permitted unless approved by conditional use.

§ (1) AMENDED - Residential Estates (F) 5. - 8/13/19

5. Property owner must provide an approved perc test, or if septic already exists, proof that current septic lines are clear of existing water lines and follow Current State Regulations.

(3) Residential

(a) Description and Intent

This district is intended for application in new single-family residential areas, and previously platted areas generally conforming to requirements of this district, and conditional uses not inconsistent with the residential character of the area.

(b) Examples of Permitted Uses

Single-Family Residences	Accessory Buildings & Uses
Manufactured Homes (see Section 10)	Duplexes (on 1 acre lots only)

§ (1) AMENDED - Residential Estates (F) 5. - 8/13/19

(c) Conditional Use Other uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(d) Lot Dimensions

Minimum Area	1 acre
Minimum Lot Width at Building Line	120 feet

Minimum Front Setback	30 feet
Minimum Rear Setback	15 feet
Minimum Side Setback	10 feet

(e) Parking Requirements

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

(f) Height, Building, & Area Regulations

1. No building shall exceed two and one-half (2 ½) stories, nor shall it exceed thirty-five (35) feet in height.
2. Accessory buildings shall be set back a minimum of fifteen (15) feet, and shall be located only in the rear yard, or in the side yard behind the building line.
3. Each principal structure shall have a minimum total dimension on each side of twenty-four (24) feet, and the entire twenty-four (24) feet shall be finished on a permanent foundation.
4. Only one primary dwelling unit per lot, regardless of lot size, shall be permitted unless approved by conditional use.

(3) Neighborhood Commercial

(a) Description and Intent

This district provides for the harmonious blending of residential and low activity commercial and professional office uses having more of a residential than a commercial character in building types, open space, traffic circulation, and parking arrangements. This district is also provided as a buffer for the stabilization of residential land use on the fringe of high activity commercial and industrial areas and to protect adjacent residential areas from commercial and industrial encroachment. All residential uses are allowed in this district including the following and other similar commercial uses:

Accountants	Light retail
Architects	Multifamily units at R-3 Standards
Attorneys	Offices
Chiropractors	Photographers
Craft and art studios (two to four studios)	Physicians
Dressmaking	Public facilities
Engineers	Realtors
Hairstylists	Single-Family units
	Surveyors

(b) Conditional Uses

Other uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(c) Lot Dimensions

Minimum Area	1 acre
Minimum lot Width at Building Line	120 feet
Minimum Front Setback	30 feet
Minimum Side Setback	10 feet
Minimum Rear Setback	15 feet

(d) Parking Requirements

Off-street parking spaces shall be required as provided in Section 10.

(e) Height, Building, & Area Regulations

1. No building shall exceed two and one-half (2 ½) stories, nor shall it exceed thirty-five (35) feet in height.
2. Accessory building setbacks shall be a minimum of fifteen (15) feet for all main buildings in the side and rear yards.
3. Building coverage shall not exceed forty (40) percent of the lot area.
4. Any light used to illuminate Neighborhood Commercial District uses and associated parking areas, shall be so designed and arranged to reflect the light downward, and away from adjacent residential property.

(4) General Commercial

(a) Description and Intent

This district is intended to be applied to general commercial areas that provide for heavy retail trade, services, and business needs of the City. This district is generally located along, and immediately adjacent to, major streets and highways.

(b) Examples of Permitted Uses

Auto Parts Store (new)	
Banks	Barber & Beauty Shops
Building & Farm Supply Stores	Business Offices
Cabinet Shops	Car Washes
Clinics	Service Stations/Convenience Stores
Grocery Stores	Hardware Stores
Laundromats	Motels

(c) Conditional Uses

Single Family Units

Other uses deemed by the Planning Commission to be consistent with the basic intent of this district, and which are equal to or less intense than uses permitted in this district.

(d) Lot Dimensions

Minimum Area	1 acre
Minimum lot Width at Building Line	120 feet
Minimum Front Setback	40 feet
Minimum Side Setback	25 feet
Minimum Rear Setback	25 feet

(e) Parking Requirements

Off-street parking spaces shall be required as provided in Section 10.

(f) Height, Building, & Area Regulations

1. No building shall exceed forty (40) feet in height.
2. Accessory building setbacks shall be a minimum of forty (40) feet in the front; twenty (20) feet in the rear; and twenty (20) feet on the sides.

Overlay and Special Purpose Districts

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

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

Subdivisions – Fee and regulations regarding subdivisions will be governed by City Ordinance No. 85 as currently written and as amended from time to time.

SECTION 8: CONDITIONAL USES

a. Nature and Description

Certain uses may or may not be appropriately located within various districts due to their unusual or unique characteristics of operation and external effects. Given their unique character, analysis and judgment of the consequences of each development and use must be given so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. Such uses are listed under the various districts herein as "conditional uses" and may be located in the district or districts so designated only in accordance with the procedure described herein.

b. Development Standards and Review Guidelines

All development shall be designed in such a way as to minimize any potential negative impact on the surrounding area. Special attention shall be given to buffering commercial developments from adjacent single-family areas. Design of the internal traffic circulation system, ingress and egress, off-street parking, loading, and pedestrian ways shall be sensitive to such conditions as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, and the proper relationship of different land uses. Landscaped areas shall be provided to protect water quality, and reduce erosion, heat and glare. Such areas shall be maintained in an attractive condition. Existing trees on a development site shall be retained where possible. Screening, open space, or other buffer shall be required to give adequate separation between uses which are not compatible and shall also be provided for the beautification and enhancement of the property.

In carrying out the purpose of this section, the following development standards and designs shall be subject to review and approval. The appropriateness of these standards shall be determined for each specific conditional use location.

- (1) The proposed use is within the provision of "conditional uses" as set out in this Code.
- (2) The proposed use conforms to all applicable provisions herein set out for the district in which it is to be located.
- (3) The proposed use is so designated, located and proposed to be operated that the public health, safety and welfare will be protected.
- (4) The proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.
- (5) The size and shape of the site, including the size, shape and arrangement of proposed structures, as well as signage related thereto, is in keeping with the intent of this Code.
- (6) The proposed ingress and egress, internal circulation system, location and amount of off-street parking, loading and pedestrian ways are sufficiently adequate, and not inconsistent with requirements of this Code.

(c) Procedure for Authorizing

- (1) The following procedure is established to integrate the conditional use with other land uses located in the districts. These proposed uses shall be reviewed and authorized or rejected pursuant to the following procedure: An application shall be filed with the City Recorder/Treasurer using the City's application form and accompanied by the appropriate fee as established by the City Council to defray processing costs. The application shall be accompanied by graphic representation showing the location and proposed use of the site

and containing such other descriptive material necessary the Applicant includes to facilitate the decision process. The additional descriptive material may include: preliminary site plans showing proposed uses and structures; proposed ingress and egress to the site, including adjacent streets; proposed off-street parking and drainage facilities; proximity of adjacent uses and buildings and other materials the Applicant deems relevant and helpful.

Each application shall include a notarized verification attesting to the truth and correctness of all facts and information presented with the application signed by one or more of the owners of the property proposed to be changed.

The filing deadline for inclusions on the Planning Commission agenda shall be the 10th day of the month preceding the Planning Commission meeting. Should the 10th fall on a weekend or holiday, the next following workday shall be the filing deadline.

(2) Upon determining that an application is proper and complete, the Code Enforcement Official shall insure that the matter is set for public hearing before the Planning Commission. The Code Enforcement Official shall be responsible for insuring that, pursuant to law, at least fifteen (15) days' notice of time, place, and subject of such hearing is published in a newspaper of general circulation in the City.

The Applicant shall present evidence to the Code Enforcement Official, at least ten (10) days prior to the required public hearing, that all adjoining property owners, including those across the street, have been notified of the proposed use, and of the time, date and place of the public hearing. Such evidence shall consist of postmarked, certified receipts and/or return receipts and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the Applicant certifies have been so notified.

(3) The Planning Commission shall review conditional use permit applications at its regularly scheduled monthly meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the Commission may approve the application as presented, approve it with conditions, table it for not to exceed one (1) month, deny the application, or refer it to the City Council for final disposition. Approval shall require an affirmative vote of a majority of the authorized membership of the Commission.

In approving such conditional uses, the Planning Commission shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be insured to the maximum extent practicable.

In no case shall the Planning Commission or City Council authorize reduction from minimum requirements of this Code relating to height, area, setbacks, parking, or landscaping. In addition, no conditional use authorized by the Planning Commission or City Council shall be subsequently considered in connection with a variance request.

If the Planning Commission disapproves or denies a conditional use application, the reasons for such action shall be given to the Applicant within fifteen (15) days from the date of the

decision. The Applicant may appeal such Commission action, or any condition(s) placed upon application approval, to the City Council within ten (10) days of receipt of notification. The appeal shall be in writing to the City Recorder/Treasurer and shall specifically state why the Planning Commission's findings and decision was arbitrary, capricious, and inappropriate. If the appeal is denied by the City Council, no application for such use or similar use shall be permitted involving any part of the same property for a period of six (6) months.

The City Council shall issue a decision in writing within twenty (20) days of the Applicant's appeal or after a hearing on the appeal, whichever, comes last. If the Applicant's appeal is denied, the Applicant shall have a further right of appeal to a local court of record having jurisdiction in this matter.

(4) No building permit shall be issued for any building or structure not in conformance with the site plan and all other conditions imposed in granting a conditional use permit. The construction, location, use, or operation shall be in accordance with all conditions and limitations set forth in the approval. No structure, use or other element of any approved site plan shall be eliminated, significantly altered or provided in another manner unless an amendment to the conditional use is approved. The procedure for amending a conditional use permit shall be the same as required for the original approval.

Substantial work or construction under a conditional use permit must be commenced within ninety (90) days of approval and completed within one year or the permit shall become null and void. An extension of time for commencement and completion shall be given for delays because of bad weather and other force majeure acts.

Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in the particular permit, the property owner may request that the permit be reviewed by the Planning Commission which may grant an extension for the conditional use.

Once any portion of the conditional use permit authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. All conditions relating to or limiting the use, status, or operation of the development, after issuance of an occupancy permit, shall be complied with by the Applicant or his successors or assigns. Failure to do so shall constitute a violation of this Code, and shall be cause for revocation of the conditional use authorization.

If sufficient site information is submitted with the approval development plan, the Planning Commission may waive otherwise mandated site plan review requirements.

SECTION 9: ACCESSORY USES

a. General Description

An accessory building is a subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one that is customarily incidental, appropriate and subordinate to the principle use of land and

buildings, and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

b. Location Requirements and Standards

An accessory building shall not be located within a required street (front or street side) setback; shall be subject to the side set back standards of the underlying zoning district; shall be set back at least five (5) feet from a property line; shall not be located within any public easement or over any known utilities or septic lines; and shall not occupy more than twenty (20) percent of the lot area or more of the lot than is covered by the principal use, whichever results in less coverage. Accessory buildings shall not exceed the floor area of the principal use in Residential Estates or Residential zones. Unless otherwise provided herein, and provided site visibility is not obstructed signs, fences and walls shall be allowed within setbacks.

An accessory building attached to a main building shall be made structurally a part of and have a common wall with the main building, and shall comply in all respects with the requirements applicable to the principal building. Detached, open-sided carports may be located in the side yard, no closer to the front lot line than the principal building, and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located at least ten (10) feet from any other structure.

With regard to height limitations, accessory structures in residential districts shall not exceed twelve (12) feet in height, as measured from the eave; and in commercial districts, such structures shall not exceed twenty-five (25) feet in height or the height of the principal structure on the lot. Accessory structures (such as barns) associated with normal farming or ranching operations shall be exempt from this limitation.

c. Residential Accessory Uses

Residential accessory uses shall include but not be limited to: accessory dwelling units (subject to limitations outlined below); fences and walls, garages, carports and off-street parking and loading areas; gardens; gates and guardhouses; home occupations (subject to limitations and requirements outlined below); playhouses, patios, cabañas, porches, gazebos and household storage buildings; radio and television receiving antennas, recreational and play facilities for residents; storm and fallout shelters; and other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

(1) Accessory dwelling units shall be allowed if conditional use approval is given by the Commission. The dwelling unit shall be used to house immediate family members or employees who work on-site. Accessory dwelling units shall not be used for general rental purposes.

(2) A home occupation shall be allowed as an accessory use in residential districts subject to compliance with the following requirements, which are intended to balance protection of residential character with enabling residents to work from home.

(a) The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner.

- (b) The work done in the home office or business creates no objectionable odor, vibration, or offensive noise that increases a level of ambient sound at the property lines.
- (c) The home office or business does not involve the external display of goods or services, or waste visible from off the property. Refer to Ordinance 37
- (d) The home office or business does not cause interference with any form of electronic communication in the vicinity.
- (e) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
- (f) The home office or business shall sell only products that are produced on the premises.
- (g) A home occupation shall be carried on wholly within the principal residential structure. No home occupations shall be allowed in accessory buildings or garages.
- (h) The home office or business occupies no more than twenty-five (25%) percent of the total floor area of the residence.
- (i) There shall be no external alteration of the dwelling, nor storage of supplies or equipment outside.
- (j) Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.

(3) Prohibited home occupations include, but are not limited to the following:

- (a) Dispatch centers, where employees come to the site to be dispatched to other locations.
- (b) Commercial stables, kennels and animal boarding and care facilities.
- (c) Commercial chicken or pig farming operations.
- (d) Assembly or repair of large appliances.
- (e) Repair or assembly of vehicles or equipment with internal combustion engines, or any other work related to motor vehicles and their parts.

SECTION 10: GENERAL STANDARDS

a. **Manufactured Homes.** All manufactured dwelling units shall comply with the following standards and Garfield's City Council shall exercise sole discretion concerning placement of mobile homes within the incorporated limits of Garfield, Arkansas. Mobile home is defined as Manufactured Home.

(1) Procedure

Any person desiring to place a mobile home in the City of Garfield shall file with the Garfield City Council an application requesting the Planning Commission's review and approval. The Applicant shall provide the City Clerk with the following information at the time of filing.

- (a) Legal description, ownership, and general location of the property.
- (b) Make, model, size, and serial number of mobile home; and
- (c) A list of adjoining property owners and their addresses and whether or not a street separates the property with the adjacent landowner(s).

Upon application, the City shall notify the abutting property owners of the request, a date, time and place of the next regularly scheduled Planning Commission meeting at such time the Planning Commission shall, unless the matter is continued for some reason,

- (a) Recommend approval to the City Council,
- (b) Recommend further conditions to the Council,
- (c) Recommend denial to the request and provide the City Council with reasons therefore.

(2) Appeal

If the Planning Commission disapproves or denies a mobile home placement application, the reasons for such action shall be given to the Applicant within fifteen (15) days from the date of the decision. The Applicant may appeal such Commission action, or any condition(s) placed upon application approval, to the City Council within ten (10) days of receipt of notification. The appeal shall be in writing to the City Recorder/Treasurer and shall specifically state why the Planning Commission's findings and decision was arbitrary, capricious, and inappropriate. If the appeal is denied by the City Council, no application for such use or similar use shall be permitted involving any part of the same property for a period of six (60) months.

The city Council shall issue a decision in writing within twenty (20) days of the Applicant's appeal or after a hearing on the appeal, whichever comes last. If the Applicant's appeal is denied, the Applicant shall have further right of appeal to local court of record having jurisdiction in this matter.

(3) Size

§ (2) AMENDED – General Standards (3) (A) - 8/13/19

- (a) Lots utilized for placement of mobile homes shall be a minimum of **one (1) acre** or more to meet perk requirements. The maximum number of mobile homes per lot shall be one (1) per lot.

- (4) **Siding/Skirting:** All siding/skirting and curtain wall construction must be approved by the City Council prior to setting the mobile home on said property.

(a) **Materials.** Exterior siding/skirting must be of a material customarily used on site-build housing units. Customary materials include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials. Customary materials do not include smooth, ribbed or corrugated metal or plastic panels or materials that have a high gloss finish.

(b) **Design and Placement.** Siding/skirting material shall extend below the top of the foundation or curtain wall, or the joint between the siding and enclosure wall shall be flashed in accordance with the building code. Mobile homes shall have a minimum of eighteen (18) inches ground clearance and shall have permanent curtain wall.

(5) **Installation of Unit.**

(a) **Guidelines.** The unit shall be installed in accordance with the recommended installation procedures of the manufacturer, and the standards established by the International Conference of Building Officials (ICBO) and published in the most recent edition of "Guidelines for Manufactured Housing Installations."

(b) **Foundation.** A continuous, permanent concrete or masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, which may include walk-out basements and garages, shall be installed in the perimeter of the unit, also in accordance with the above referenced ICBO guidelines. All mobile homes must be permanently attached to a foundation; (permanently attached mobile home being defined as one which is continuously fixed to concrete piers or other foundation of equal quality).

(c) All mobile homes will be permanently attached to utilities and a septic tank, in compliance with all county health regulations and inspections.

(6) **Transport Equipment.** All running gear, tongues, axles, and wheels must be removed at the time of installation of the unit on the lot.

§ (2) AMENDED – General Standards (3) (A) - 8/13/19

(7) **Finished Floor Elevation.** The finished floor of the unit shall meet the manufacturer's specifications unless that unit is located in a floodplain, in which case floodplain regulations shall control.

(8) **Additions.** Attached additions and detached garages shall comply with the building code, and floodplain regulations, if applicable. All standards of this section shall apply to such additions and garages.

(9) **HUD Code Certification.** Prior to issuance of a permit to place a manufactured home in Garfield, evidence shall be presented to the Code Enforcement Official that the dwelling unit was constructed in accordance with the federal (HUD) standards and meets the definition set forth in the federal standards and under A.C.A. 20-25-102.

b. Off-Street Parking and Off-Street Loading Facilities

(1) **Off-Street Parking Facilities Required:**

(a) A parking space shall be an area for the parking of a motor vehicle, plus those additional areas and facilities required to provide for the same ingress and egress from said space. The area set aside to meet these provisions must be usable and accessible for the type of off-street parking needed.

(b) At the time of initial occupancy of a site or of construction of a building, there shall be provided off-street parking facilities for vehicles in accordance with the requirements of these regulations.

(c) Parking Space Schedule:

1. Single-family residential – 2 spaces per dwelling unit
2. Retail Sales & Convenience Stores – 5 spaces per 1,000 square feet of gross floor area.
3. Business/Professional Offices & Banks – 3 ½ spaces per 1,000 square feet of gross floor space.
4. Personal Services – 5 spaces per 1,000 square feet of gross floor area.
5. Restaurants – 15 spaces per 1,000 square feet of gross floor area.
6. Day Care Facilities – 1 space per staff, plus 2 additional spaces; an off-street drop-off and pick-up area shall be provided as a condition of approval.
7. Churches – 1 space per 4 seats in the sanctuary.

(2) Location of Off-Street Parking Facilities. In all districts, off-street parking facilities described in this section shall be located as hereinafter specified.

(a) For residential dwellings and commercial establishments, parking facilities shall be located on the same site as the buildings they are to serve.

(b) For any church, there shall be allowed the use of joint parking facilities in connection with any building or use not normally open, used, or operated during the principal operating hours of a church; provided a properly drawn legal instrument is executed by the parties concerned for the joint use of such off-street parking facilities, which instrument, duly approved as to form by the city attorney, shall be filed with the application for a building permit.

(c) No parking shall be allowed in any front yard of a residential use, except when parked on the driveway, provided such does not block a sidewalk or create an obstruction to visibility.

(d) No parking at commercial establishments shall be located within the first ten (10) feet of the required front or side setback nearest the adjoining street(s).

(3) Standards for Off-Street Parking Facilities: Commercial Zones:

(a) Each parking space shall be not less than twenty (20) feet in length and nine (9) feet in width, exclusive of aisles and access drives. Including the ingress and egress areas and aisle space, the parking area shall provide for three hundred (300) square feet per vehicle. All public parking facilities must meet ADA requirements as set out in Americans With Disabilities Act, 42 U.S.C. 12101, ("ADA").

- (b) All parking shall have adequate ingress or egress to a street or alley. Sufficient room for turning and maneuvering vehicles shall be provided on the site.
- (c) Entrances and exits to parking lots and other parking facilities shall not be closer than twenty-five (25) feet to street intersections, and shall be subject to site plan approval.
- (d) If the parking area is illuminated, lighting shall be arranged so as to not cause annoying glare to adjoining residential uses.
- (e) No commercial repair work, servicing of vehicles, or parking of new or used motor vehicles for the purpose of storage, rent, or sale shall be conducted on a required parking area.
- (f) All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, including the area of the driveway from the edge of the street to the property line shall be maintained with asphalt, concrete, gravel or brick.
- (g) All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all storm water, and to not increase the storm water runoff onto the surface of adjoining properties or streets.
- (h) Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to back on to a public right of way except in a single-family residential development on local and collector streets.
- (i) Off-street loading spaces shall be at least fourteen (14) feet by forty-five (45) feet in size, with a minimum fourteen (14) foot height clearance.
- (j) Drive aisles within off-street parking lots may be two-way, with a minimum width of twenty-four (24) feet. One-way aisles are permitted provided that entrances and exits are clearly marked with a minimum width of twelve (12) feet.
- (k) All required parking and loading spaces, driving aisles, and access ways shall be constructed prior to the issuance of a certificate of occupancy, provided that a temporary certificate of occupancy may be issued if it is determined, based on information provided by the Applicant, that inclement weather or other factors beyond the control of the Applicant have prevented compliance with this "timing" requirement. Said temporary certificate shall expire at the end of one hundred twenty (120) days.
- (l) In addition to meeting the off-street parking requirements of this section, establishments with drive-through facilities shall comply with the following minimum vehicle stack space standards.

1. Stack Space Schedule

- a. Fast-food restaurants, 100', measured from the order station.
- b. Banks, 70', measured from the teller drop.

- c. Automatic car wash, 50', measured from the entrance.
- d. Other uses, 30', measured from the pick-up window.

2. Design and Layout. Vehicle stack spaces shall be subject to the following design and layout standards.

a. Stack spaces shall be designed so as not to impede pedestrian access to the building; on and off site traffic movements; or movements into or out of parking spaces.

b. Stack space lanes shall be a minimum of eight (8) feet wide, and shall be separated from other internal driveways with painted lines or curbing.

(4) Standards for Off Street Parking Facilities: Residential Zones:

(a) Off-street parking, as an accessory to residential uses, includes the parking of valid licensed passenger automobiles, pickup trucks, vans, recreational equipment and recreational vehicles solely for use by the occupants of the dwelling or by guests of the occupants. Under no circumstances shall off-street parking, as an accessory use, be used for the parking of commercial vehicles which weigh over one and one-half (1 ½) tons.

(b) Boats, trailers and recreational vehicles may be parked outdoors on a lot in a residential district provided that:

1. The boats, trailers or recreational vehicles are owned and used by a resident of the premises;

2. The boats, trailers or recreational vehicles are not used for living, sleeping, or housekeeping purposes; and

3. The boats, trailers or recreational vehicles are currently registered and licensed, as required by State law.

c. Driveways and Access

(1) Access to property shall be allowed only by way of driveways, and no other portion of the lot frontage shall be used for ingress and egress. Continuous curb cuts are prohibited in areas where curbs exist.

(2) Driveway design shall be such that minimization of interference with through street traffic is achieved, and shall be subject to site plan approval. The types of vehicles that a driveway is intended to serve shall be a prime factor in determining the acceptable radii of driveways.

(3) At least one driveway shall be permitted for each lot.

(4) Driveways shall be located at a minimum of twenty (20) feet from the side property lines. A separation of forty (40) feet is required between the driveways on one lot and the driveways on the adjacent lots. Driveways on the same lot shall be no closer than fifty (50) feet to each other.

(5) Driveways on corner lots shall be located as far away from the intersection as possible. In no case shall a driveway be installed closer than five (5) feet to the beginning of the curb radius.

(6) Ingress/Egress Driveway Width. The width of the driveway throat shall no exceed forty (40) feet width. Driveway lanes shall be a minimum of thirteen (13) feet in width and shall have no more than three lanes on one entrance/exit.

d. Dumpster Screening. Dumpsters located in any district shall be completely screened from view on all sides visible to the public by a fence or wall with a minimum height of six (6) feet, or one (1) foot taller than the dumpster, whichever is greater. The fence or wall shall provide complete visual screening of the dumpster, and be compatible in material and color with the principal structure on the lot.

e. Corner Visibility. On corner lots at intersecting two-way streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet above curb grade with the triangular area formed by an imaginary line that follows street side property lines, and a line connecting them, twenty-five (25) feet from their point of intersections. This sight triangle standard may be increased by the city in those instances deemed necessary for promoting traffic safety, and may be lessened at intersections involving one-way streets.

f. Fences

(1) Fences shall not exceed eight (8) feet in height unless approved by the Planning Commission/City Council; fencing around tennis courts and other recreational amenities, shall be exempt from this height limit.

(2) Fences shall comply with the corner visibility standards of "e" above.

SECTION 11: AMENDMENTS

a. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. Such changes may be initiated by the City Council or by the Planning Commission. In addition, individual property owners may petition for district boundary changes on the Official Zoning Map for property of which they are the owner of record.

b. All proposed changes, additions, and amendments shall be submitted in writing to the Planning Commission for public hearing, review, and recommendation to the City Council. Said submittal shall include a statement and drawings, if appropriate, explaining the proposed changes.

c. No action to make changes in the Ordinance or Map may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published by the City in a newspaper of general circulation in the City.

d. Individual property owners applying for changes to the Official Zoning Map shall present evidence, at least ten (10) days prior to the required public hearing, that all adjoining property owners, including those across the street, have been notified of the proposed change and of the time, date, and place of the public hearing.

e. Public hearings relative thereto shall be held at Planning Commissions meetings. Following public hearing, proposed amendments and changes may be, approved as presented or in modified form by a majority vote of the Commission's membership, and recommendation to the City Council for adoption.

f. If the Planning Commission disapproves, recommends against, or tables a proposed amendment or change, the reason for such shall be given in writing to the petitioner within fifteen (15) days from the date of the decision. The petitioner may appeal such Commission action to the City Council, provided that the petitioner states specifically, in writing to the City Recorder-Treasurer, why the Planning Commission's findings and decisions were arbitrary, capricious, and inappropriate. Such appeal shall be filed within thirty (30) days of the Planning Commission action.

g. No application for a change of the Zoning Map shall be resubmitted within twelve (12) months from the date of the action of the City Council unless the Planning Commission finds that a substantial change in conditions or situation has occurred.

SECTION 12: REPEALING LANGUAGE

That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 13: SEVERABILITY

In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, as if such invalid or unconstitutional provision was not originally a part of this ordinance.

SECTION 14: PUBLICATION

This ordinance shall, upon its passage, be published pursuant to the ordinance setting out the guidelines for publication of Garfield ordinances.

SECTION 15: EMERGENCY CLAUSE

Whereas it is of the utmost urgency that the city of Garfield, Arkansas, have an up-to-date ordinance setting out zoning rules, regulations and enforcement procedures to promote, in accordance with present and future needs, the public health, safety and general welfare, order, convenience, efficiency and economy in the process of development, convenience, population distribution, good civic design and arrangements, adequate provisions for public utilities and other public requirements.; therefore, an Emergency is hereby declared to exist and this ordinance being necessary for the immediate protection of the public shall take effect immediately on its passage and approval.

Passed and Approved this 7th day of May, 2013.

APPROVED: /s/ _____
HONORABLE LAURA HAMILTON, Mayor

ATTEST: /s/ _____
MERLENE SNODERLY, Recorder-Treasurer