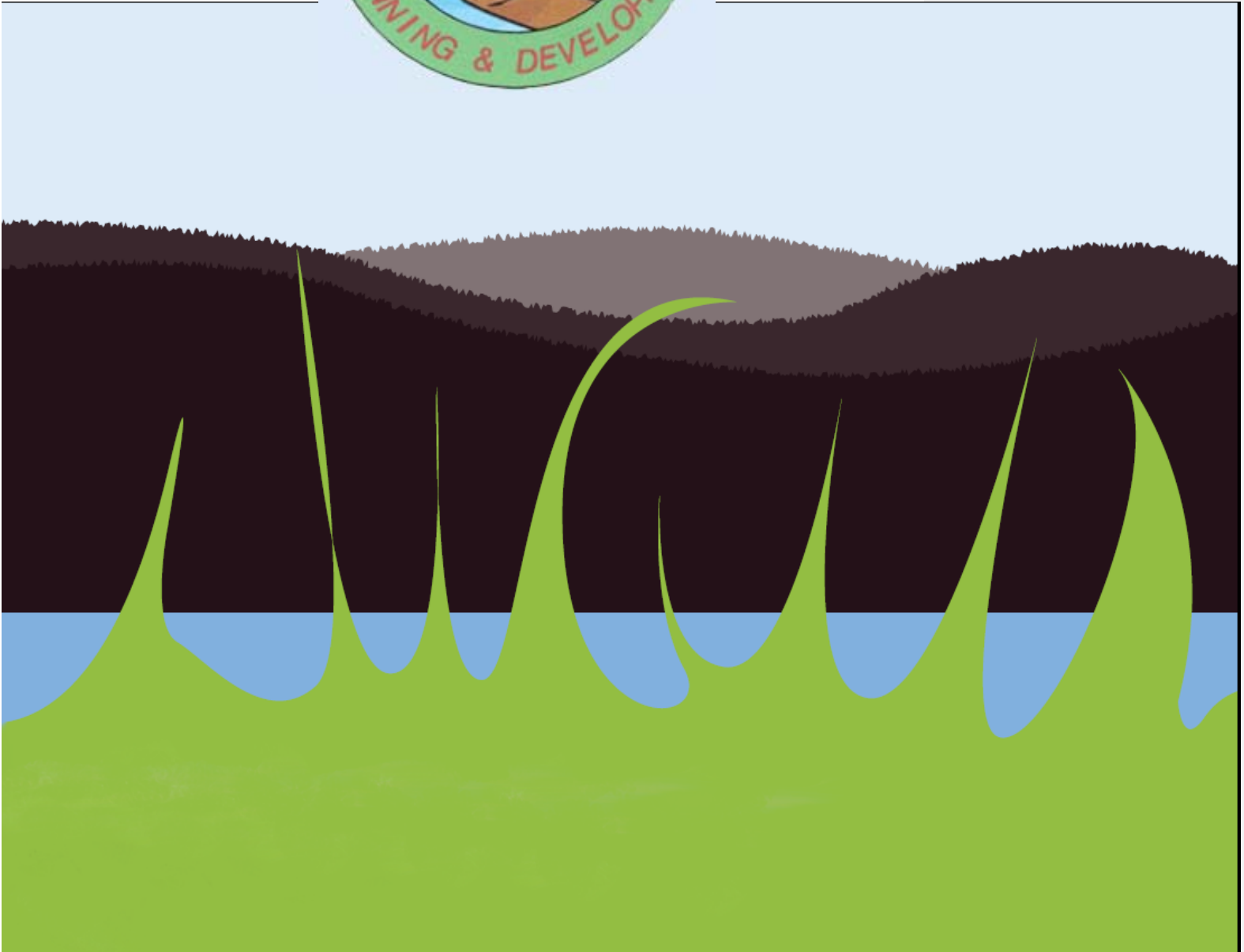


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Acknowledgements

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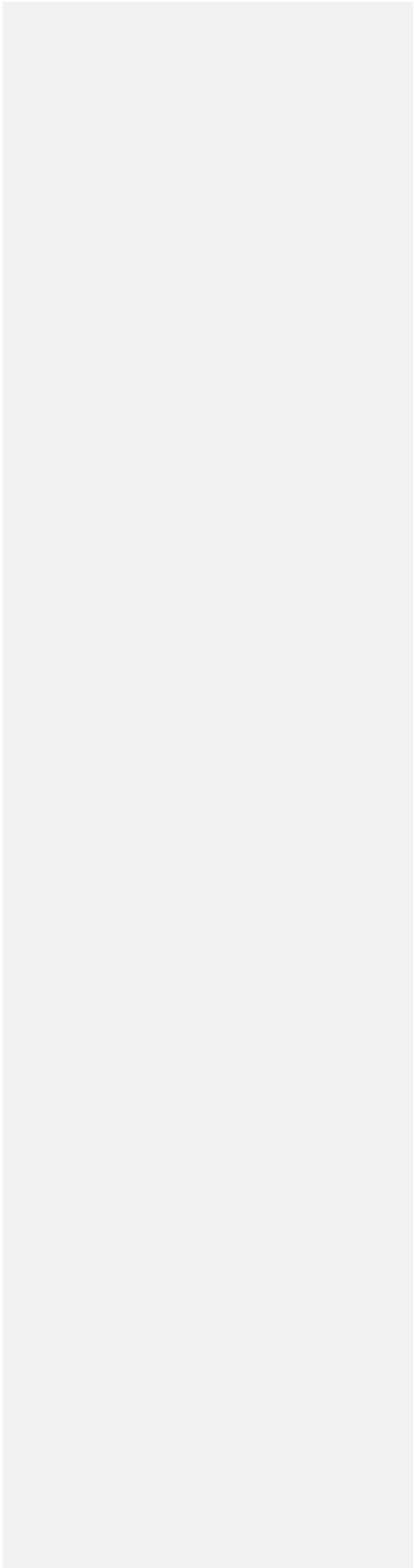
Contents

Chapter 1 <i>General Provisions</i>	6
Section 1.1 Title.....	6
Section 1.2 Purpose & Findings	6
Section 1.3 Authority	6
Section 1.4 Applicability.....	6
Section 1.5 Consistency with Plan	6
Section 1.6 Districts Established	7
Section 1.7 Zoning Map	7
Chapter 2 <i>Zoning Districts</i>	8
Section 2.1 Generally	8
Section 2.2 Conservation (C).....	8
Section 2.3 Village (V)	8
Section 2.4 Low Impact Planned Residential (LI)	9
Section 2.5 Non-Residential (NR).....	12
Section 2.6 Use Matrix	13
Chapter 3 <i>Development Standards</i>	18
Section 3.1 Applicability.....	18
Section 3.2 Lots & Setbacks	18
Section 3.3 Building Height	18
Section 3.4 Land Application of Waste Prohibited	19
Section 3.5 [Reserved]	19
Section 3.6 Open Space Standards	19
Section 3.7 Stormwater Management.....	2524
Section 3.8 Stream Corridors	2625
Section 3.9 Street Rights-of-Way	27
Chapter 4 <i>Procedures</i>	2827
Section 4.1 General Procedural Requirements.....	2827
Section 4.2 Notice Provisions.....	2827
Section 4.3 Public Hearings.....	29
Section 4.4 Amendments.....	3029
Section 4.5 Conditional Use Permits.....	3231
Section 4.6 Site Plans	3433

Section 4.7 Building Permits [3433](#)
Section 4.8 Appeals [3634](#)
Section 4.9 Variances [3735](#)
Chapter 5 *Special Standards for Particular Uses* [3937](#)
Section 5.1 Accessory Uses or Structures [3937](#)
Section 5.2 Home Occupations [3937](#)
Chapter 6 *Nonconformities* [4139](#)
Section 6.1 Purpose [4139](#)
Section 6.2 Continuance [4139](#)
Section 6.3 Nonconforming uses [4139](#)
Section 6.4 Nonconforming lots [4239](#)
Section 6.5 Nonconforming structures [4240](#)
Section 6.6 Nonconforming situations [4340](#)
Chapter 7 *Enforcement* [4341](#)
Section 7.1 Generally [4341](#)
Section 7.2 Violations [4341](#)
Section 7.3 Enforcement Process [4441](#)
Section 7.4 Penalties [4442](#)
Chapter 8 *Legal Provisions* [4442](#)
Section 8.1 Coordination with Other Regulations [4442](#)
Section 8.2 Effective Date [4442](#)
Section 8.3 Severability [4542](#)
Chapter 9 *Administrative Agencies* [4543](#)
Section 9.1 Quorum Court [4543](#)
Section 9.3 Board of Zoning Adjustment [4543](#)
Section 9.4 Zoning Administrator [4543](#)
Chapter 10 *Definitions & Rules of Interpretation* [4644](#)
Section 10.1 General rules of interpretation [4644](#)
Section 10.2 Definitions [4644](#)
Section 10.3 Interpretation of Zoning Map [6159](#)

Tables

Table 1 Conservation (C) District Dimensional Standards 8
Table 2 Village (V) District Dimensional Standards..... 9
Table 3 Low Impact Planned Residential (LI) District Dimensional Standards..... 10
Table 4 Density & Open Space Requirements in Low Impact Planned Residential (LI) District 11
Table 5 Use Matrix 15
Table 6 Undisturbed and Useable Open Space..... 21



Chapter 1 General Provisions

Section 1.1 Title

This Code is known as the "Lake Maumelle Watershed Zoning Code." It is referred to in this document as "this Code" or "LMWZC."

Section 1.2 Purpose & Findings

This Code:

- A. Implements the purposes established in Arkansas Code Annotated (A.C.A) § 14-17-206; and
- B. Implements the Pulaski County Comprehensive Land Use Plan and Land Use Controls for the *Lake Maumelle Watershed* (the "Land Use Plan"); and
- ~~B-C.~~ Promotes the State policy for the protection of environmental resources (A.C.A. § 15-20-302).

Section 1.3 Authority

This Code is adopted pursuant to the authority granted in Arkansas Code Annotated (A.C.A.) §§ 14-17-201, et. seq.

Section 1.4 Applicability

- A. This Code applies to the use or development of land located in that portion of the Lake Maumelle Watershed that is located in the unincorporated portions of Pulaski County. This area is designated on the Official Zoning Map (see § 1.7).
- B. Where unincorporated portions of Pulaski County lie within the extra-territorial jurisdiction (ETJ) of a municipality, this Code applies within the ETJ as set forth in Arkansas Code Annotated (A.C.A.) §§ 14-56-413 or any other applicable state law or statute, to the extent permitted by law.
- ~~B-C.~~ A Family Exclusion as provided in Section 1.9.E of the Subdivision and Development Code is considered a permitted use under this Code. Any lot that is created by a Family Exclusion, or any conveyance of a lot that was created under a Family Exclusion, is allowed without any mitigation as required by the open space or stormwater management requirements of this Code. This exception does not apply to a ~~any change of land use, rezoning, a Conditional Use or re-subdivision of land (outside of a family excluded lot) that was subject to a Family Exclusion.~~

Section 1.5 Consistency with Plan

The County finds that this Code is consistent with the *Land Use Plan*.

Section 1.6 Districts Established

The following districts are established within the unincorporated portions of the Lake Maumelle Watershed:

- A. Conservation (C)
- B. Village (V)
- C. Low Impact Planned Residential Development (LI)
- D. Non-Residential (NR)

Section 1.7 Zoning Map

- A. The zoning district boundaries are established on the Official Zoning Map.
- B. The Official Zoning map is considered a part of this chapter.
- C. The Planning Director maintains the Official Zoning Map.
- D. The Official Zoning Map may be printed on a single map or a series of maps. The County Judge shall authenticate the Official Zoning Map. If a question arises about the boundaries of a zoning district, the printed copy of the Official Zoning Map supersedes this copy or the geographic information system.
- E. The Director may cause a copy of the Official Zoning Map to be reproduced, in any convenient scale, on the County's geographic information system (the "Digital Zoning Map"). If the Official Zoning Map in its printed form is destroyed, the Digital Zoning Map is considered the Official Zoning Map.

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Chapter 2 Zoning Districts

Section 2.1 Generally

This Chapter establishes the regulations for uses and development within each zoning district.

Section 2.2 Conservation (C)

A. Purpose

The Conservation ~~district-District~~ comprises land owned by Central Arkansas Water and other public entities for the purpose of land conservation, protection of the water quality of Lake Maumelle, and the provision of natural resource-based public recreation.

B. Uses

The permitted, conditional and prohibited uses in the Conservation District are established in Section 2.6.

C. Dimensional Standards

All development within the Conservation ~~district-District~~ shall comply with the following standards:

Table 1 Conservation (C) District Dimensional Standards

1	Gross Residential Density (maximum):	1 dwelling unit per 50 acres
2	Lot Size (minimum):	As required by the Subdivision and Development Code (§ 4.2.C)
3	Open Space (minimum):	As required by the Subdivision and Development Code (Chapter 8)
4	Impervious Area (maximum):	As required by the Subdivision and Development Code (Chapter 8)

Section 2.2-3 Village (V)

A. Purpose

The Village District comprises the northwestern portion of the watershed generally identified as Little Italy. Consisting of small farms and rural homesteads, the Village district provides for the continuation of this relatively compact, rural residential development pattern. As with any zoning district, additional land may be rezoned to the Village District pursuant to Section 4.4.

B. Uses

The permitted, conditional and prohibited uses in the Village District are established in Section 2.6.

C. Dimensional Standards

All development within the Village district shall comply with the following standards:

Table 2 Village (V) District Dimensional Standards

1	Gross Residential Density (maximum):	2 dwelling units or lots per acre.
2	Lot Size (minimum):	20,000 square feet or as required by the Subdivision and Development Code (§ 4.2.C), whichever is greater.
3	Open Space (minimum):	See Subdivision and Development Code (Chapter 8)
4	Impervious Area (maximum):	See Subdivision and Development Code (Chapter 8)

Section 2.3.4 Low Impact Planned Residential (LI)

A. Purpose

The Low Impact Planned Residential District (LIPR) is intended to accommodate large-scale, predominantly residential planned development. The standards offer flexibility, and require the project to be designed in accordance with the principles of low impact development. ~~Developers~~Projects will apply the SET Tool, and will apply the SET Tool and are encouraged to provide minimum open space in accordance with the SET Tool or a “sliding scale” approach to density but in no instance shall the provided open space be less than the minimum required by the SET tool. Undisturbed open space mitigates development impacts on water quality while shaping an integrated network of greenways throughout the watershed to protect habitat, recreational use, and scenic beauty, and enhance property values.

B. Uses

The permitted, conditional and prohibited uses in the Low Impact Planned Residential District are established in Section 2.6.

C. Dimensional Standards

1. All development within the Low Impact Planned Residential district shall comply with the standards in Table 3, below.
2. Column (A) of Table 3 and subsection D applies unless the applicant elects to develop under the “Village Density” option (subsection 3, below).
3. Up to 40% of the land area within the LI District may develop under the "Village Density" option (Table 3, Column (B)). An applicant who chooses this option shall submit a site plan and a SET Analysis. The Department of Planning and Development shall establish an inventory of the total land area within the LI District, the total amount of this land eligible for Village Density development, the total amount approved for Village Density Development, and the remaining amount of land eligible for Village Density development.

Table 3 Low Impact Planned Residential (LI) District Dimensional Standards

	(A)	(B)
	Generally	Village Density
1	Gross Residential Density (maximum): See density standards (Column (B) of Table 4, subsection D, below)	2 dwelling units or lots per acre
2	Open Space (minimum): See open space standards (Columns C-E in Table 4, subsection D, below), or as required by the Subdivision and Development Code (Chapter 8). All projects must apply-comply with the SET Tool, but provide open space as required by either the SET Tool or Table 4.	See Subdivision and Development Code (Chapter 8) <u>and must comply with the SET.</u>
3	Impervious Area (maximum): See Subdivision and Development Code (Chapter 8)	See Subdivision and Development Code (Chapter 8) <u>and must comply with the SET.</u>
4	Maximum Commercial Square Footage: 25 square feet per dwelling unit	75 square feet per dwelling unit

D. Density

Purpose: this section protects the Lake Maumelle Watershed by creating incentives for applicants to maximize undisturbed open space. Under this "sliding scale" density approach, applicants who increase the amount of open space on their property are allowed increases in permitted density. In addition, applicants who provide a greater percentage of their open space as undisturbed land are required to provide less open space. Because the LI District does not establish a minimum required lot size, this gives applicants wide flexibility to design their properties in a way that meets market demands, allows for design flexibility, and enables a project to meet the stormwater management and discharge limits established for the ~~basin~~ watershed.

- 1. Maximum Density & Minimum Open Space.** The amount and type of open space that the applicant provides will determine the permitted maximum density. The maximum density and corresponding open space requirements are established in Table 4. The applicant may choose among the open space alternatives in Table 4, but may not exceed the density allowed by that alternative.

Table 4 (Density & Open Space Requirements in Low Impact Planned Residential (LI) District) begins on next page

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 2 Zoning Districts | Section 2.3.4 Low Impact Planned Residential (LI)
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Table 4 Density & Open Space Requirements in Low Impact Planned Residential (LI) District

A Option	B Gross Density <small>(dwelling units per gross acre)</small>	C Total Open Space <small>(percent of development site)</small>	D Minimum % Undisturbed <small>(percent of total Open Space)</small>	E Total % Site Undisturbed <small>(percent of development site)</small>
1	1 dwelling unit per acre	60.0%	70.0%	42.0%
2		55.0%	80.0%	44.0%
3		50.0%	90.0%	45.0%
4	1 dwelling unit per 3 acres	55.0%	70.0%	38.5%
5		50.0%	80.0%	40.0%
6		45.0%	90.0%	40.5%
7	1 dwelling unit per 5 acres	50.0%	70.0%	35.0%
8		45.0%	80.0%	36.0%
9		40.0%	90.0%	36.0%

How to read -Table 4:

Column A is the combination of open space and resulting density that an applicant may select.

Column B is the maximum gross density allowed, based on the combination of total and undisturbed open space in the application.

Column C is the total percent of open space that the applicant must reserve on the site. This may include a combination of usable and undisturbed open space.

Column D is the minimum percent of the open space that must be undisturbed.

Column E is the percent of the total development site that remains undisturbed by providing the minimum percent of open space associated with that option.

Example: *An applicant has 200 acres and chooses Option 2. The applicant is allowed 200 dwelling units (1 dwelling unit per gross acre x 200 acres). The project must include 110 acres of open space (200 acres x 55%). 88 of those acres (or 44% of the total site) must be undisturbed (110 acres x 80%).*

- Density Bonus for Sewage Pump-Out.** The number of dwelling units may exceed the maximum density allowed by subsection 1, above, if residential dwelling units or residential lots are served by central sewer systems that collect and pump out sewage

for treatment outside of the watershed. The additional dwelling units are calculated by multiplying the residential lots or dwelling units served by the central system by 10%.

3. **Conservation Areas.** A subdivision plat or site plan in the LI District shall designate open space.

E. Maximum Commercial Square Footage

1. In order to maintain a scale that is appropriate to a neighborhood context and to provide for locally serving businesses, this section establishes a maximum size for commercial uses in a planned residential development site. The size limit is flexible in order to provide design flexibility.
2. The maximum square footage for all commercial uses within a site plan or subdivision plat that is subject to this section is established in Table 3, above.
3. For purposes of this subsection, the maximum square feet includes all floor area within the outside walls of the principal structure, but does not include non-habitable accessory structures such as dumpsters.
4. For purposes of this subsection, the number of dwelling units used to calculate the commercial square footage are those designated and approved as part of a site plan or subdivision plat that includes the commercial uses. After the site plan or subdivision plat is approved, no further commercial uses or floor area ~~area~~ is allowed within the area subject to the site plan or subdivision plat unless the site is rezoned to the NR district.

Section 2.4-5 Non-Residential (NR)

A. Purpose

This section allows non-residential developments that are not permitted in the Village or LI Districts. The County finds that, due to the uncertainties associated with long-term market conditions and the actual location of future residential and non-residential development in the Lake Maumelle watershed, it is not possible to predict where these uses may occur. In addition, the scale and intensity of these types of uses may make them incompatible with the rural character and environmental objectives of the watershed, unless they occur on a limited basis and ~~are~~ subject to case by case review and conditions that mitigate their impacts. Therefore, the Non-Residential (NR) district is a “floating” district that accommodates more intensive commercial uses, which provides for legislative review of their use and compatibility.

B. Rezoning Criteria

In addition to other factors established by Arkansas law for a rezoning, the applicant must demonstrate that the proposed development meets the compatibility criteria established by the *Pulaski County Comprehensive Land Use Plan and Land Use Controls for the Lake Maumelle Watershed* for the NR District.

C. Uses

The permitted, conditional and prohibited uses in the Non-Residential district are established in §2.6. The NR district generally permits any non-residential use not prohibited in the Lake Maumelle Watershed by § 2.6.

D. Dimensional Standards

All development within the NR district shall comply with the following standards:

1	Lot Size (minimum)	See Subdivision and Development Code (§4.2.C)
2	Open Space (minimum):	See Subdivision and Development Code (Chapter 8)
3	Impervious Area (maximum):	See Subdivision and Development Code (Chapter 8)

Section 2.6 Use Matrix

A. Generally. The permitted and conditional uses within each zoning district are set out in Table 5 below.

B. Definition of Uses. Each use listed in Table 5 is defined -

1. In Chapter 10; or
2. As set out in the reference to the applicable national coding system classification (American Planning Association's Land Based Classification Standards and the North American Industrial Classification System) listed in Table 5, which serves as an aid to interpretation; or
3. As the term is customarily used.

C. Listing of Uses. No use is permitted pursuant to this Code, and no Building Permit authorizing a use may be issued, unless:

1. The use is listed as a permitted or Conditional Use in this Section; and
2. All applicable permits and approvals have been issued by the agency or official with final decision making authority to approve the use.

D. Unlisted Uses.

1. No building permit shall be issued for a use not specifically mentioned or described by category in the Use Matrix, unless the Zoning Administrator determines that it falls within the same category as a listed use.
2. Uses not listed as a permitted use or conditional use are presumed to be prohibited from the applicable zoning district. If a particular use is not listed in the Use Matrix, and the use is not listed as a prohibited use and is not otherwise prohibited by law, the

Zoning Administrator shall determine whether a **materially similar** use exists in this Section. If the Zoning Administrator determines that a materially similar use does exist, the regulations governing that use apply to the particular use not listed. The Zoning Administrator's decision shall be recorded in writing. If the Zoning Administrator determines that a materially similar use does not exist, this Code may be amended to establish a specific listing for the use in question.

3. The Zoning Administrator may determine that a use is materially similar if:

~~a.~~ The use falls within the definition of a use as defined in [§ 10.2](#) of this Code; or

~~b.~~ The use is listed as within the same Structure or Function classification as the use specifically enumerated in the Use Matrix, as determined by the Land-Based Classification Standards ("LBCS") of the American Planning Association [Reference: <http://www.planning.org/lbcs/>]. The use is considered materially similar if it falls within the same LBCS classification and meets the requirements of subsection ~~c.~~, below.

~~c.~~ If the use cannot be located within one of the LBCS classifications, the Zoning Administrator shall refer to the North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, 1997) ("NAICS"). The use is considered materially similar if it falls within the same industry classification of the NAICS, and meets the requirements of subsection ~~c.~~, below. [Reference: <http://www.census.gov/eos/www/naics/>]

~~a.~~

~~d.b.~~ The proposed use shall not generate average daily trips exceeding other uses proposed in the zoning district by more than ten percent (10%), as determined by the Institute of Transportation Engineers, *Trip Generation* Manual, which document is incorporated by this reference. The Zoning Administrator may also refer to similar local traffic studies.

~~E.~~ **Hierarchy of Use Classifications.** In order to assist in interpretation of the Use Matrix, the LBCS and NAICS numbers follow each use in the Use Matrix. In interpreting the Use Matrix, the following rules of construction apply:

~~1.~~ If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs. The specific use is not permitted in all districts where the uses coded to the general classification are permitted simply because they share a similar LBCS or NAICS code number. The numbers increase as the classifications get more specific.

~~2.~~ Some uses are listed separately, but fall within the same LBCS or NAICS classification. The uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same LBCS or NAICS classification.

~~F-E.~~ **Conflict with State or Federal Law.** Notwithstanding any provision of this Section to the contrary, uses which are required to be permitted in any zoning district by state statute may be permitted in accordance with state law whether or not the use is included in the Use Matrix.

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Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 2 Zoning Districts | Section 2.6 Use Matrix
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Table 5 Use Matrix

District

Note: P means permitted by right, C means conditional use, and S means that site plan approval is required. A blank cell means that the use is not permitted.

Use	C	V	LI	NR	LBGS-Function	LBGS-Structure	AMACS
Residential Uses							
Single-family detached dwellings		P	P	S	1100	1110	-
Accessory dwelling unit (interior or attached to principal building)		P	P				
Accessory dwelling unit (1 per lot, in one detached building)		S	S		1100	1130	-
Duplex		P	P	C	1100	1121 1202	-
Manufactured home		P	P		1100	1150	-
Mobile home on a lot in existence as of the effective date of this Code		P	P		1100	-	-
Mobile home park					2200	-	-
Modular home		P	P		2200	-	-
Multi-Family		C	C	C	1100	1200	-
Quadplex		C	C	C	1100	1204	-
Single-family attached homes Dwelling (Townhomes)		P	P	C	1120	-	-
Triplex		C	C	C	1100	1203	-
Commercial Uses							
Farm supply or garden store		C	S	P	3123	-	423820 444220
Gas Station		C	C	C	3116	3270	45232-45319 811101
Commercial Fueling					3116	3270	45232-45319 811101
Guest Cottage		C	C	P	-	-	-
Hotel		C	C	P	1330	1330	-
Office	S-C	C	S	P	2300-2455 5140-5160 6800-6820	2100-2110	51-55-02
Restaurant		C	S	P	2500-2580	3230	722
Roadside Stand Market		S	S	P	2454	-	111
Security Quarters	S-C			S	2440		561613
Store or shop, with gasoline sales		C	C	C	3153	3501	445120
Store or shop, without gasoline sales (at least 10,000 sf gfa)			S	P	2000-2100 2120-2122 2124-2145 2150-2163 2600-2720	2300-2360 2300-2392 2300-2400	415-416 442110-442110 448110-451210

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 Chapter 2 Zoning Districts | Section 2.6 Use Matrix
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Table 5 Use Matrix

District

Note: P means permitted by right, C means conditional use, and S means that site plan approval is required. A blank cell means that the use is not permitted.

Use	District				LBGS-Expansion	LBGS-Structure	AAACS
	C	V	LI	NR			
Store or shop, without gasoline sales (up to 10,000 sf gfa)		C	P	P	2000-2100 2120-2122 2124-2145 2150-2163 2600-2720	2300-2360 2300-2593 2300-2400	415-446 442110-444210 448110-451210
Industrial & Manufacturing Uses					3000-3520	2600- 2636	31-33
Mining, Quarrying, and Oil and Gas Extraction					8000	-	24
Surface, open pit, or in-stream gravel mining							
Subsurface <u>Mining</u>	C	C	C				
Warehousing and Storage Uses							
Automobile graveyard (as defined in ACA § 27-74-402)							
Junkyard (as defined in ACA § 27-74-402)							
Outdoor storage, sale or disposal of agricultural or industrial equipment <u>which is</u> used by a farm or agricultural operation located within the Lake Maumelle watershed		C	C	C			493130
Outdoor storage, sale or disposal of industrial parts and equipment <u>(except as provided above)</u>					3600	2700	493190
Utilities							
<u>Electric substation</u>	S	S	S	S			
Hazardous waste <u>site storage, treatment, collection or transfer</u>					4341-4342	6340- 6341	562112- 562119
Injection well							
Medical waste <u>facilities or sites</u>					4345	6320	562212
<u>Natural gas regulating station</u>	S	S	S	S			
Power Plants						6420- 6446	-
Radio, TV, or wireless transmitter	S	S	S	S		6510	-
Regional power transmission line						6100- 6162	-
Solid Waste Landfills					4343-4345	6300- 6314	221320 562991
<u>Water distribution system (such as tanks, pumps, and water towers)</u>	S	S	S	S			

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 2 Zoning Districts | Section 2.6 Use Matrix
 Draft-For Discussion Only

Table 5 Use Matrix

District

Note: P means permitted by right, C means conditional use, and S means that site plan approval is required. A blank cell means that the use is not permitted.

Use	District				LBGS-Function	LBGS-Structure	AMACS
	C	V	LI	NR			
Utility lines <u>and related appurtenances (including electric lines, phone and cable lines, distribution circuits, gas and fuel lines, water lines, steam and air conditioning lines, irrigation channels, and sewer and waste water lines)</u>	P	P	P	P	4230-4232, 4234	6100-6162	-
Waste collection, processing, <u>land application</u> , or treatment facilities, <u>or land application</u> , including animal waste, septage, food waste, commercial or mining waste					4340-4346	6300-6350-6356	-
Wireless communications attached to another <u>principal</u> structure such as a steeple, chimney, or similar element	P	P	P	P	4233	6510	-
Wireless communications <u>towers or structures</u> <u>facility</u>	S	S	S	S	4233	6500	-
					-	-	-
Arts, Recreation & Entertainment					-	-	-
Land Management Support Facility (as an accessory use)	P				-	-	-
Nature Facility	P				-	-	-
Recreation, resource-based	P				5310	4440	71311
Visitor Facility	P				5500	-	712190
					-	-	-
Institutional					-	-	-
<u>Cemetery</u>		C	C	S			
Club/Lodge		C	C	P	6830-6600	3500-3700-3800	71201
Clubhouse		C	C	P	-	-	-
Community Center		S	C	P	-	-	-
Day Care		C	C	P	6563	-	624410
Meeting Hall		C	C	P	6830-6600	3500-3700-3800	71201
Place of Worship		S	C	P	-	-	-
Police or Fire Station	C	S	C	P	6400-6420	4500-4520	922160-922190
Recreational Building		C	C	P	-	-	-
Schools		S	C	P	6110-6122	4210	61
					-	-	-
Agricultural Uses					-	-	-
Confined animal operations that exceed the following number of animals: 300 beef cattle, 200 dairy cows, 750 finishing hogs, 300 sows, 3000 nursery pigs, 15,000 turkeys, <u>150 horses</u> , or 65,000 chickens.					9300	8300-8420	112111-112420

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 Chapter 3 Development Standards | Section 3.1 Applicability
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Table 5 Use Matrix

District

Note: P means permitted by right, C means conditional use, and S means that site plan approval is required. A blank cell means that the use is not permitted.

Use	District				LBGS-Function	LBGS-Structure	AMCS
	C	V	LI	NR			
All other agricultural and timbering uses	P	P	P	P	9300	8300-8420	112111-112420

Chapter 3 Development Standards

Section 3.1 Applicability

This chapter applies to all uses or development subject to this Zoning Code.

Section 3.2 Lots & Setbacks

- A. Minimum lot sizes are as established in Chapter 2 of this Code and Chapter 4 of the Subdivision and Development Standards.
- B. Setbacks and building lines are as established in Chapter 4 of the Subdivision and Development Code and ~~Section 3.8 Stream Corridors~~ Section 3.8 Stream Corridors of this Code.

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Section 3.3 Building Height

A. Purpose

A maximum building height is established in order to:

- Protect public health and safety, and
- To mitigate the impact of development on the visual character of the watershed, including forests and ridgelines.

B. Maximum Height

1. The maximum height of a building or structure shall not exceed 36 feet.
- ~~1.2.~~ Subsection B.1, above, does not apply to a structure that is accessory to a single-family detached dwelling or to an accessory structure that is part of an existing agricultural use.

C. Measurement

1. Height is measured from the finished grade of the structure at any point along the lowest ground floor to the top of the structure, the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof.
2. For purposes of subsection 1, the “lowest ground floor” does not include:
 - a. A basement, or
 - b. A partial basement with at least three walls below grade, and where at least one wall extends above grade, and the vertical wall dimensions from floor to ceiling do not exceed 12 feet.
3. Architectural features that are integral to a building are not included in the height measurement, and may extend beyond the top or highest point of a building or structure identified in subsection 1. Examples of these architectural features include:
 - a. Chimneys, and
 - b. Cupolas, and
 - c. Steeples, and
 - d. Bell towers, and
 - e. Parapet walls that do not exceed 42 inches in their vertical dimensions.

Section 3.4 Land Application of Waste Prohibited

The land application of septage or animal waste by any method, including surface spreading, subsurface injection, burial or other process, is prohibited within any zoning district subject to this Code. This section does not apply to drip irrigation.

Section 3.5 [Reserved]

Section 3.6 Open Space Standards

A. Amount Provided

1. See applicable zoning district regulations (Chapter 2).
2. All ~~developments projects~~ must ~~apply~~ comply with the SET Tool, but provide open space as required by either the SET Tool or, in LI District, Table 4 of Section 2.~~34~~.D.
3. Regardless of the development criteria used, developers using BMP’s must provide a minimum of 25% ~~undisturbed~~ Undisturbed area Open Space (see Ttable 6). In the LI District, developers choosing not to use BMP’s must adhere to the Sliding Scale (Table 4) ~~and comply with~~ the SET Tool.

B. Conservation Easements

1. All lands within required open space designated on a subdivision or site plan shall be protected by a permanent conservation easement. Conservation easements are not required for the construction or expansion of a single-family detached dwelling unit on a lot of record in existence as of the effective date of this Code.
2. The conservation easement shall:
 - a. Prohibit further development, and
 - b. Incorporate by reference any requirements for open space established by this Code and the Subdivision and Development Code.
 - c. Set any additional standards proffered by the applicant which that safeguards the site's special natural resources from negative changes.
3. The County or approved RME may, but are not required to, accept conservation easements of unlimited duration for public use of any portion or portions of undivided Open Space land. If the County or RME do not accept the conservation easement, title shall remain in ownership by the individual property owner or a condominium or POA. If the County or RME accept the conservation easement, then the requirements of subsection F.1.a (dedications) apply.

C. Open Space Categories

This Code divides open space into 2 broad categories: Undisturbed Open Space and Useable Open Space. The definition and standards for each of these categories is set out in Table 6 below.

D. Designation of Open Space

1. An application for Preliminary Plat or Site Plan aApproval shall designate all categories of Required-required Open-open Space-space on the development site. An application for Final Subdivision Plat approval shall designate Undisturbed and Useable Open Space.
2. Areas designated as required Open Space shall not be further subdivided.
3. Open space shall, where possible, connect to or align with existing greenways or regional recreational attractions located on the development site, or on adjacent properties.

E. Permitted Activities in Open Space

The permitted activities in each category of open space are established in Table 6, below:

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 3 Development Standards | Section 3.6 Open Space Standards
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Table 6 Undisturbed and Useable Open Space

	Undisturbed Open Space	Useable Open Space
Definition	Land areas retained in an essentially undeveloped state for resource protection, passive recreation areas, or to protect water, air, or forest areas.	Land areas that are landscaped or essentially unimproved, and used to meet human recreational needs. This includes land that is improved and set aside, dedicated, designated, or reserved for recreational facilities.
Examples	Common open space in forests, forest restoration areas, grasslands, stream corridor buffers (see Section 3.8 Stream Corridors), habitat corridors, undisturbed land, and other natural or naturalized ground cover.	Unpaved road shoulders, entrance landscape features, unpaved sports fields and recreation areas, and areas in turf or non-native ornamental landscaping which are subject to artificial compaction and chemical applications and therefore can produce runoff impacts on water quality.
Permitted Activities	<ul style="list-style-type: none"> • Low impact recreational access • Native landscape restoration, including establishment of native under-story grasses and other herbaceous species • Up to 50% of the forested areas on private residential lots, if those areas are protected by conservation easements, deed restrictions, or other legally enforceable covenants that meet the standards of this section • timbered areas with a reforestation plan approved by the Pulaski County Planning Board or Planning and Development Department • Thinning and brush removal using equipment that does not compact or damage tree roots • controlled burns as approved by the Arkansas Forestry Commission • Existing chemical applications as part of an existing agricultural use 	<ul style="list-style-type: none"> • Any activity allowed in Undisturbed Open Space • Landscaping • Playgrounds • Active recreation • Community gardens
Prohibited Activities	<ul style="list-style-type: none"> • Any activity prohibited in Useable Open Space (<i>except for residential lots, as provided above</i>) • Clearing • Mowing • Application of fertilizers or pesticides (except as provided above) • Other activities that would disturb or degrade the natural features of the Open Space 	<ul style="list-style-type: none"> • Parking • Storage of equipment, vehicles, merchandise, or similar items • Residential or non-residential lots

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F. Ownership & Maintenance of Open Space

1. Management of Open Space

In order to ensure that Open Space is maintained so that its use and enjoyment is not diminished or destroyed, the Open Space may be owned, preserved, and maintained by any of the mechanisms described below, or combinations of those methods:

a. Dedication

a.

- i. Dedication of the Open Space to a county or an approved responsible management entity (RME) satisfies this subsection.
- ii. Dedication shall take the form of a fee simple ownership or a conservation easement.

ii.

b. Bill of Assurance

The applicant may provide a Bill of Assurance consistent with sections 3.9 and 8.7 of the Subdivision and Development Code that includes a Maintenance Plan. The Maintenance Plan shall:

- i. Designate the areas to be preserved as Open Space, including the category of Open Space lands (undisturbed and useable).
- ii. Describe the manner in which the Open Space will be perpetuated, maintained, and administered.
- iii. Designate ownership of the Open Space.
- iv. Provide for regular and periodic operation and maintenance responsibilities for Open Space areas.
- v. Estimate staffing needs, insurance requirements, and associated costs.
- vi. Establish a mechanism to fund the maintenance of the Open Space land and operation of any Open Space(s) on an on-going basis. The funding plan shall include the means to fund long-term capital improvements as well as regular yearly operating and maintenance costs.
- vii. Escrow of sufficient funds to maintain and operate the Open Space(s) for up to one year.
- viii. Require that any changes to the maintenance plan shall be approved by the County.

viii.

c. Property Owners Association (POA)

c.

- i. This alternative involves ownership of the Open Space by a permanent Property Owners Association (POA) which assumes full responsibility for its maintenance.
- ii. The Articles of Incorporation for the POA shall include a Maintenance Plan consistent with subsection 3b, above.
- ii.
- iii. The restrictive covenants shall provide that, if any private owner of Open Space fails to maintain the open space according to the standards of this

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Chapter, the Zoning Administrator may enter the Open Space to maintain it. This enforcement alternative requires reasonable notice to the owner and demand that deficiency of maintenance is corrected. The maintenance is charged to those persons having the primary maintenance responsibility.

iii.

iv. The association shall be formed and operated under the following provisions:

iv.

- (a) The developer shall provide a description of the association, including its bylaws and methods for maintaining the Open Space.
- (b) The association shall be organized by the developer and shall be operated with a financial subsidy from the developer, before the sale of any lots within the development.
- (c) The articles of incorporation shall provide that membership in the association is automatic (mandatory) for all purchasers of homes and their successors.
- (d) The by-laws shall identify the conditions and timing of transferring control of the association from developer to homeowners.
- (e) The association shall maintain insurance and taxes on the undivided Open Space, enforceable by liens placed by the County on the association. The POA shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments. Such liens may require the imposition of penalty interest charges. If any bill to maintain undivided Open Space by the County is unpaid by November 1 of each year, a late fee of fifteen percent (15%) shall be added to the bills and a lien shall be filed against the premises in the same manner as other County claims.
- (f) A proposed operations budget and plan for long term capital repair and replacement of the Open Space shall be submitted with the final subdivision plat. The members of the association shall share the costs to maintain and develop the undivided Open Space. Shares shall be defined within the association bylaws. The operations and budget plan shall provide for construction of any improvements relating to the Open Space within three (3) years after the plat is recorded.
- (g) If the POA proposes to transfer undivided Open Space land (within the methods permitted in this section), notice of this action shall be given to all property owners within the development.

~~(h)~~ The association shall have or hire staff to administer common facilities and properly and continually maintain the undivided Open Space.

(h)

v. The POA may lease Open Space lands to any other qualified person, or corporation, for operation and maintenance of the Open Space lands, as follows:

v.

~~(a)~~ The lease agreement shall provide:

(a)

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Pulaski County | Lake Maumelle Watershed Zoning Code
Chapter 3 Development Standards | Section 3.6 Open Space Standards
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- That the residents of the development shall at all times have access to the Open Space lands;
 - That the undivided Open Space to be leased shall be maintained for the purposes set forth in this Chapter; and
 - That the operation of Open Space facilities is for the benefit of the residents only, or is open to the residents of the County, at the election of the developer and/or POA.
- ~~(b)~~ •
~~(b)~~ The lease shall be subject to the approval of the POA board. Any transfer or assignment of the lease shall be further subject to the approval of the board.
- ~~(c)~~ (b) Lease agreements shall be recorded with the County Recorder's Office within thirty (30) days of their execution. A copy of the recorded lease shall be filed with the County and the Planning and Development Department.
- ~~(c)~~ (c) **d. Condominiums.** The undivided Open Space and associated facilities may be controlled through the use of a Master Deed approved by the County. This subsection applies only if the building that is subject to the Master Deed and the open space are located on the same "property" as defined in A.C.A. §18-13-102. The Master Deed shall conform to the Arkansas Horizontal Property Act (A.C.A Title 14, Subtitle 2, Chapter 13). All undivided Open Space land shall be held as a general common element. The Master Deed shall include a Maintenance Plan consistent with subsection 3, above.
- ~~(e)~~ **e. Transfer of Easements to a Private Conservation Organization.** An owner may transfer perpetual easements to a private, nonprofit organization, among whose purposes it is to conserve Open Space and/or natural resources (such as a land conservancy), if:
- ~~(e)~~ **e.**
- i. The organization is a bona fide conservation organization with perpetual existence;
 - ii. The organization is financially capable of maintaining such Open Space;
 - iii. The conveyance contains legally enforceable provisions for proper reverter or retransfer if the organization becomes unwilling or unable to continue carrying out its functions;
 - iv. The organization provides a proposed operations budget and plan for long term capital repair and replacement; and
- ~~(e)~~ • A maintenance agreement is entered into by the developer and the organization.
- ~~(e)~~ **v.**
- f. Improvement Districts.** An improvement district established pursuant to A.C.A. Title 14 that has the authority to establish and maintain the Open Space. The improvement district shall implement a Maintenance Plan consistent with subsection 3, above.

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2. Enforcement.

2.

a. Failure to adequately maintain the undivided Open Space in reasonable order and condition is a violation of this Chapter. The County may give notice of any violation, by personal service or by United States mail, to the owner or occupant, to remedy the violation within thirty (30) days.

a.

b. The instruments creating the dedication, Property Owners Association, condominium association, easement, transfer, or improvement district shall be provided with the application for subdivision plat or site plan approval.

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Section 3.7 Stormwater Management

A. All uses or development activities subject to this Code shall provide an analysis of compliance with the Surface Runoff Loading Rates from New Development (section 8.3 of the Subdivision and Development Code), unless the development is exempt as provided below. This includes any use or development that is subject to an application for subdivision plat, site plan or building permit review, including any lot created by a lot split that is exempt from subdivision plat approval.

B. This section does not apply to:

1. One single-family dwelling unit on a lot of record in existence as of the effective date of this Code; or

2. Family Exclusions transfers as provided in Section 1.9.E of the Subdivision and Development Code; or

3. One single-family dwelling unit on a vacant lot of record in existence as of the effective date of this Code.

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B-C. Any exempt activity as described in this subsection must register the proposed use and address with the Planning Director. The County planning staff will provide a SET Tool analysis for an exempt activity as defined in subsection B, above.

C-D. A property owner may add an accessory structure on a lot of record in existence as of the effective date of this Code that, at that time, was occupied by a single-family dwelling unit. Before commencing construction, the property owner shall register with the Zoning Administrator. Within 5 business days, the Zoning Administrator shall determine whether the application complies with the Surface Runoff Loading Rates established in Section 8.3 of the Subdivision and Development Code.

~~D.E.~~ This section does not require the applicant to file an additional SET Tool analysis if the applicant is already required to file the analysis as part of a subdivision plat or site plan filed pursuant to the Subdivision and Development Code.

Section 3.8 Stream Corridors

A. Purpose and Findings

This section establishes stream buffers that:

- Provide an additional measure of prevention of contaminants in runoff from entering surface waters, and eventually Lake Maumelle, and
- Stabilize stream banks, and
- Protect natural habitats, and
- Provide a level of protection that is consistent with generally accepted scientific principles.

B. Stream Corridor Designation and Widths

1. The minimum width of the corridor is 50 feet on both sides of the stream. This is measured from the normal stream waterline, or edge of the active channel, on each side of the stream.
2. The agency (Planning Board, or Board of Zoning Adjustment, or planning staff) that approves an application for a rezoning, conditional use permit, site plan, subdivision plat, variance, or building permit may approve a reduction in the buffer width if:
 2. a. The applicant demonstrates that the proposed development with the reduced buffer complies with subsection b, below, and
 - a.
 - i. The reduced buffer:
 - i. is needed to avoid an unreasonable economic hardship, taking into consideration the unique topography, lot size or configuration of the property; or
 - ii. based on sound scientific evidence, will not exceed the impact of a development with the buffer width required by subsection 1, above; and
 - ii. The applicant agrees to comply with the reduced stream buffer width proposed in the application.

C. Stream Corridor Uses and Activities

1. Stream corridors shall remain undisturbed, and may include only:
 1. a. Forests,

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- b. Shrubs,
- c. Grassland
- d. Any other activity allowed by the United States Corps of Engineers.

2. The following activities are not permitted in a stream corridor, unless they-such activities are needed to restore previously disturbed conditions with native vegetation:

- 2.
 - a. Lawn or managed pervious surfaces.
 - b. Fertilizers (except for existing chemical applications as part of an existing agricultural use).
— Man-made structures or alterations.

c. _____

3. The following activities are permitted within a stream corridor:

- 3.
 - a. Dams or impoundments that-areas approved by the United States Corps of Engineers, or the Arkansas Natural Resources Commission; and
 - b. Roads that are necessary to provide access to the property if:
 - i. There is no other feasible alternative to provide access;⁷² and
 - ii. The road width is limited to the narrowest width that complies with the Subdivision and Development StandardsPulaski County Master Road Plan; and
 - iii. The activity complies with Section 404 of the Clean Water Act;⁷² and
 - c. Utility structures or alterations.

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Section 3.9 Street Rights-of-Way

If an application for rezoning, conditional use permit or site plan approval includes streets, roads or other public features of the Master Road Plan, the Pulaski County Planning Board may require the reservation of land for future public facilities as so indicated in the Plan.

Chapter 4 Procedures

Section 4.1 General Procedural Requirements

A. Types of Permits or Development Orders. This Chapter establishes the procedures for processing the following types of permits or development order required by this Code:

1. Amendments to the text of this Code (“text amendments”) or to the Official Zoning Map (a “rezoning”) ([Section 4.4](#));
2. Conditional Use Permits ([Section 4.5](#));
3. Site Plans ([Section 4.7](#)~~Section 4.6~~);
4. Building Permits ([Section 4.8](#)~~Section 4.7~~);
5. Appeals from administrative decisions ([Section 4.9](#)~~Section 4.8~~); and
6. Variances from a requirement of this Chapter ([Section 4.10](#)~~Section 4.9~~).

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B. Forms. The Zoning Administrator shall prescribe the contents of an application for a Permit or Development Order. Applicants must provide the information required by the application. The Zoning Administrator and the decision making agency will not process an application that is incomplete.

C. Fees. An application shall include the following fees:

Permit or Development Order	Fee
Rezoning, Conditional Use Permit, Site Plan	\$100
Building Permit, Interpretation	No charge
Appeals and Variances	\$25

Section 4.2 Notice Provisions

A. Applicability

1. Notice is only required for Amendments ([Section 4.4](#)), conditional use permits ([Section 4.5](#)) or variances ([Section 4.10](#)~~Section 4.9~~). The Zoning Administrator may provide additional notice, such as a posting on the County's website or email. However, any failure by the County or Zoning Administrator to provide additional notice does not void any action relating to the application that is subject to the notice.
2. If the application affects a school district, the County shall provide the notice required by A.C.A. § 14-17-207(b)(2).

B. Publication

1. For a rezoning or text amendment, notice shall be published one time in a newspaper of general circulation in the County. Published notice is not required for a conditional use permit.
2. The notice shall be published prior to the Planning Board's public hearing.

C. Neighborhood Notice

1. The applicant shall submit proof that at least six (6) days notice of the Pulaski County Planning Board's hearing has been given to all property owners (including those directly across streets and alleys) abutting the boundary of the property which is the subject of the application.
2. The applicant may use one of the following methods to provide notice to the affected property owners:
 - a. A walk-around notice supplied by the Department of Planning and Development with the applicant determining the ownership of parcels or;
 - a. A certified mail notice to owners utilizing a provided form letter and a list from an abstract firm showing the property owners taken from tax records.
3. Proof of notice is to be filed with the staff of the Department of Planning and Development at least four (4) days prior to the public hearing.

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D. Contents

1. The notice of a text amendment shall include a brief description of the nature of the application.
2. The notice of a rezoning or a conditional use permit shall include:
 - a. The time, place and date of hearing on the application.
 - b. A legible rezoning map, and
 - c. A description of the general area under consideration including street boundaries or other boundaries of the area proposed for rezoning, so that the area is readily identifiable; and
 - d. A legal description of the properties proposed to be rezoned.

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Section 4.3 Public Hearings

The Quorum Court, Planning Board, and Board of Zoning Adjustment may adopt rules of procedure for conducting public hearings, taking public testimony and evidence, and rendering and publishing a decision, and any other matters assigned to them by this Code that are consistent with the requirements of this Chapter.

Section 4.4 Amendments

A. Applicability

This section applies to any application to:

1. Amend the text of this Code (a "**text amendment**"), or
2. Amend the zoning map by changing the boundaries of a zoning district, or to change the zoning district designation of a property (a "**rezoning**").

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B. Initiation

1. The following parties may initiate an application for a text amendment:
 - a. The Quorum Court, or any member of the Quorum Court, or
 - b. The Planning and Development Department, or
 - c. The Planning-Planning Board, or any member of the Planning Board.
2. The following parties may initiate an application for a rezoning:
 - a. Any of the parties eligible to initiate a text amendment, or
 - b. Any person or group of persons having a proprietary or contractual interest in the building or land affected.
3. No identical or substantially identical application to rezone a specific parcel or parcels of land denied by the Quorum Court may be made for a period of one (1) year after the Quorum Court's decision.
4. An application for a text amendment shall include a copy of any existing text that the applicant proposes to change, and the specific language that the applicant proposes to add, modify or delete.
5. An application for a rezoning shall include:
 - a. A letter of request for rezoning.
 - b. The required application fee (see [Section 4.1.C](#)).
 - c. Name and address of the owner of record.
 - d. Source of title showing deed record book and page number or instrument number.
 - e. Name and address of the developer, if applicable.

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f. A survey including date of survey, north point, and graphic scale. The survey of the property shall identify two land corners and provide Arkansas State Plane coordinates for at least two points.

f. _____

g. Location of the tract by legal description and giving total acreage.

g. _____

h. Vicinity map locating streets or road, section lines, railroads, schools, parks, and other significant features within one-half mile of the proposed development.

h. _____

i. Exact boundary lines of the tract indicated by a heavy line, giving dimensions, angles and dimensions.

i. _____

j. At the applicant's option, a site plan consistent with Chapter 6 of the Subdivision and Development Ordinance. *Note: while applicants are not required to submit a site plan with the rezoning application, the County will require a site plan before the property is developed. The SET Tool or other development requirements may not accommodate the maximum density or intensity allowed in the zoning district, in which case the strictest standard applies. Therefore, the County encourages a concurrent submittal of the rezoning application and site plan in order to resolve these issues before the applicant makes significant financial commitments toward a specific development.*

j. _____

k. Any other information required by the Department of Planning and Development or the Pulaski County Planning Board.

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C. Notice

See § 4.2, above.

D. Approval Procedures

1. The Planning Board shall consider the application at a public hearing. The Planning Board shall recommend approval, denial, or modification of the application and forward its report and recommendation to the Quorum Court.
2. The Quorum Court may hear the application at a regular meeting. The Quorum Court hearing shall occur no later than sixty (60) days from the date of the Planning Board's action.
3. The Quorum Court may require conditions that are necessary to protect and promote the health, safety and welfare of the County's citizens.

E. Criteria

1. A text amendment or a rezoning is a legislative decision.

2. In determining whether to grant an amendment, the Quorum Court may consider:

2. _____

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- a. The Planning Board's recommendations; and
- b. The Planning and Development Department's recommendations; and
- c. The Land Use Plan; and
- d. Any other reasonable factor permitted by law.

F. Scope of Approval

A text amendment or rezoning does not authorize the development of property. If the application is approved, property owners within the area subject to the rezoning or text amendment must comply with the revised zoning regulations and proceed to the next step in the development approval process. This may include a subdivision plat, conditional use permit, or site plan application. The Zoning Administrator may allow the applicant to combine the procedures for those applications with the rezoning application.

Section 4.5 Conditional Use Permits

A. Applicability

This section applies to any application to approve:

- 1. A use designated as a conditional use in Section 2.6 ;
- 2. Any other situation where this Code requires conditional use permit approval.

B. Initiation

- 1. Any person or group of persons having a proprietary or contractual interest in the building or land affected may file a conditional use permit application.
- 2. No identical or substantially identical application for a conditional use permit that is denied may be made for a period of one (1) year after the final decision denying the application.

- 3. An application for a conditional use permit shall include:

- a. _____ A letter of request for a conditional use permit.
a. _____
- b. _____ The required application fee (see [Section 4.1.C](#)).
b. _____
- c. _____ Name and address of the owner of record.
c. _____
- d. _____ Source of title showing deed record book and page number or instrument number.
d. _____
- e. _____ Name and address of the developer, if applicable.
e. _____

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f. A survey including date of survey, north point, and graphic scale. The survey of the property shall identify two land corners and provide Arkansas State Plane coordinates for at least two points.

f. _____

g. Location of the tract by legal description and giving total acreage.

g. _____

h. Vicinity map locating streets or road, section lines, railroads, schools, parks, and other significant features within one-half mile of the proposed development.

h. _____

i. Exact boundary lines of the tract indicated by a heavy line, giving dimensions, angles and dimensions.

i. _____

j. The type, location, and boundaries of all uses proposed for the property.

j. _____

k. The height and dimensions of all proposed buildings and structures.

k. _____

l. A site plan consistent with Chapter 6 of the Subdivision and Development Ordinance.

l. _____

m. Any other information required by the Department of Planning and Development or the Pulaski County Planning Board.

m. _____

n. The location of Useable and Undisturbed Open Space.

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C. Notice

See § 4.2, above.

D. Approval Procedures

1. The Planning Board shall consider the application at a regularly scheduled public meeting.
2. Interested persons may appear at the public meeting and offer information in support of or against the proposed conditional use.
3. After the hearing is closed, the Planning Board shall:
 - a. Approve the conditional use as submitted; or
 - b. Approve the conditional use with modifications; or
 - c. Defer the conditional use; or
 - d. Deny the conditional use; or
 - e. Impose conditions and restrictions upon the use permitted by or the premises benefited by the conditional use permit that are necessary to reduce or minimize the impacts of the conditional use, ensure compatibility with the surrounding property, or to implement the Land Use Plan.

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4. The Planning Board's decision is appealable directly to the circuit court as provided in A.C.A. § 14-17-211.

E. Criteria

The Planning Board shall, in its discretion, determine whether the application complies with the following development standards:

1. The proposed use conforms to all applicable provisions of this Code for the district in which it is located.
2. The proposed use is designed, located and operated in a way that protects the public health, safety and welfare.
3. The proposed use is compatible with and will not adversely affect other property in the area where it is proposed to be located.
4. The size and shape of the site including the size, shape and arrangement of proposed structures are consistent with the intent of this chapter.
5. The internal street system and improvements comply with the Subdivision and Development Code.
6. Safeguards are proposed which limit noxious or offensive emissions including noise, glare, dust and odor.
7. The applicant will adequately maintain Open Space.

F. Scope of Approval

A text amendment or rezoning does not authorize the development of property. If the application is approved, property owners within the area subject to the rezoning or text amendment must comply with the revised zoning regulations and proceed to the next step in the development approval process. This may include a subdivision plat, conditional use permit, or site plan application. The Zoning Administrator may allow the applicant to combine the procedures for those applications with the rezoning application.

Section 4.6 Site Plans

Refer to Chapter 6 of the Subdivision and Development Code.

Section 4.7 Building Permits

A. Applicability

1. A **Building Permit** is required for:
 - a. The construction of any building, ~~structure,~~ or impervious area, or
 - b. Any new use or change of use for any existing building, ~~structure,~~ or parcel.

D. Criteria

The Zoning Administrator shall approve the application if it complies with:

1. All applicable requirements of this Code, and
2. Any conditions of a rezoning, conditional use permit, subdivision plat, or site plan which apply to the subject property.

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E. Scope of Approval

1. After a building permit is issued, the applicant shall commence construction. The applicant shall commence construction within 1 year after the effective date of the building permit.
2. The Zoning Administrator may extend the effective date of the permit for the same time period as the original permit if the applicant applies for the extension before the permit expires.

Section 4.9 8 Appeals

A. Applicability

This section applies to any appeals of an administrative decision with respect to the enforcement and application of this Code.

B. Initiation

1. The applicant or an interested party shall file a Notice of Appeal with the Zoning Administrator and the Board of Zoning Adjustment. For purposes of this section, an "interested party" means any person or entity with standing to challenge an administrative decision under Arkansas law.
2. An appeal is filed by submitting a notice of appeal which specifies the grounds for the appeal, including any supporting documents or other materials.
3. The officer from whom the appeal is taken shall transmit to the Board of Zoning Adjustment all the papers constituting the record of the action that is appealed.
4. The applicant shall file the Notice of Appeal within 30 days after the decision is rendered.

C. Notice

No specific notice is required for any hearing on appeal.

D. Approval Procedures

The Board of Zoning Adjustment shall conduct a public hearing and shall affirm or reverse, in whole or part, the administrative decision.

E. Criteria

In considering the appeal, the Board of Zoning Adjustment may consider:

1. Whether the decision violates this Code;
2. Whether the decision violates an Arkansas or federal statute;
3. Whether the decision results in a violation of the appellant's state or federal constitutional rights; or
4. Any other factors permitted by law.

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F. Scope of Approval

In rendering its decision, the Board of Zoning Adjustment may make any order, requirement, decision or determination that the officer from whom the appeal is taken could have made.

Section 4.10 9 Variances

A. Applicability

This section applies to any application to vary the literal provisions of this Code due to hardship.

B. Initiation

1. The applicant shall file a letter requesting a variance with the Zoning Administrator and the Board of Zoning Adjustment. For purposes of this section, an "interested party" means any person or entity with standing to challenge an administrative decision under Arkansas law.
2. The application shall specify the grounds for the variance, including any supporting documents or other materials.

C. Notice

Notice is required for the Board of Zoning Adjustment hearing as provided in Section 4.2, above.

D. Approval Procedures

1. The Board of Zoning Adjustment shall conduct a public hearing and shall affirm or reverse, in whole or part, the administrative decision.
2. The Board of Zoning Adjustment may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.
3. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone not permitted under this Code.

4. The applicant may appeal a decision of the Board of Zoning Adjustment to the Circuit Court of Pulaski as provided by Arkansas law.

E. Criteria

The Board of Zoning Adjustment or Board of Administrative Appeals may grant a variance only if:

1. Strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and
2. The applicant demonstrates the variance is in keeping with the spirit and intent of this Code.

F. Scope of Approval

In rendering its decision, the Board of Zoning Adjustment may make any order, requirement, decision or determination the officer from whom the appeal is taken could have made.

Chapter 5 *Special Standards for Particular Uses*

Section 5.1 Accessory Uses or Structures

- A. An accessory use or structure is a use or structure that:
1. Is customarily incidental to the permitted principal use or structure, and
 2. Is clearly subordinate to the permitted principal use or structure, and
 3. Does not significantly alter the character of the permitted principal use or structure.
- B. An accessory use or accessory structure is allowed if a principal structure exists on the same lot or a building permit for a principal structure has been issued at the same time the building permit for the accessory structure is issued.
- C. An ~~Accessory-accessory Dwelling-dwelling Unit-unit~~ that is not served by a central sewer system must include a septic tank that is approved by the Arkansas Department of Health.
- D. Accessory uses or accessory structures are subject to all development requirements which apply to a principal use.

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Section 5.2 Home Occupations

~~Purpose:~~ *This section clarifies that certain commercial activities are allowed in a dwelling unit. These types of activities are customarily found in the County, and will not adversely impact adjacent residential uses if certain standards are in place. Home occupations are low intensity uses that occupy a small area of the lot or principal structure, and may include a home office environment. The services provided by the home occupation may be on or off site.*

A. Applicability

1. This section applies to any occupation or profession or business activity customarily conducted entirely within a dwelling unit or an accessory structure.
2. A home occupation is allowed only if there is an occupied dwelling unit on the same parcel.
3. This section does not supersede any restrictive covenant, which may be more restrictive than the standards established in this section.

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B. General Standards

Home occupations shall not:

1. Change the outside appearance of the dwelling unit with the exception of the signage necessary to facilitate the occupational use.
2. Generate traffic, or parking, ~~sewage or water use~~ in excess of a typical dwelling unit in the neighborhood.
3. Create a hazard to persons or property, result in electric interference, or become a nuisance.
4. If the home occupation occurs in an accessory structure, it shall not exceed:
 - a. ~~five~~ Five hundred (500) square feet in floor area, or
 - b. 49% of the floor area of the principal dwelling unit.

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C. Permitted Home Occupations

~~The following~~ Any -home occupations ~~that meets the standard listed in subsection B is~~ are permitted in any zoning district unless the applicant includes a different restriction in a Site Plan, or Conditional Use Permit or a condition of rezoning. ~~;~~

- ~~1. Dressmaking, sewing and tailoring.~~
- ~~2. Light fabrication, carpentry or cabinet making.~~
- ~~3. Painting, sculpturing or writing (artistic endeavors).~~
- ~~4. Telephone answering service or radio monitoring service.~~
- ~~5. Home crafts such as model making, rug weaving and lapidary work.~~
- ~~6. Tutoring.~~
- ~~7. Music or dance instruction.~~
- ~~8. Catering and home cooking.~~
- ~~9. Computer programming.~~
- ~~10. Clock or watch repair.~~
- ~~11. Barbershops and beauty shops.~~
- ~~12. Animal hospitals.~~
- ~~13. Nursery schools.~~
- ~~14. Small appliance, engine or motor repair shops, if they occur in a garage attached to the dwelling unit or an enclosed accessory structure.~~
- ~~15. Stables or kennels.~~
- ~~16. Animal grooming.~~
- ~~17. Paint shops.~~
- ~~18. Personal or home care products marketing with or without stock in trade on premises.~~
- ~~19. Professional office.~~
- ~~20. Massage therapy.~~
21. Any similar use that is conducted entirely within an enclosed structure, and that does not create noise, odor, air pollutant emissions, or glare at the property beyond that normally created by a single-family dwelling.

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D. Prohibited Home Occupations

The following are prohibited as home occupations:

1. Mortuaries.
2. Private clubs.
3. Restaurants.

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Chapter 6 *Nonconformities*

Section 6.1 Purpose

This Chapter addresses the uses, lots and structures which were established before the effective date of this chapter, and that do not conform to the requirements of this Code. These nonconformities may continue, but their enlargement or expansion is discouraged in order to encourage their eventual compliance with this Code, and to preserve the integrity of the zoning districts and the regulations of this Code.

Section 6.2 Continuance

A. The following situations may continue in the same manner as they existed prior to the effective date of this Code:

1. A nonconforming use, structure or lot that legally existed on effective date of this Chapter, or
2. ~~Any~~ use, structure or lot that is rendered nonconforming by an amendment to this Chapter.

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B. A conforming use, structure or lot legally existing under this Code is not rendered nonconforming by action of a municipality, the County, or state in the acquisition of property for street or drainage right-of-way.

Section 6.3 Nonconforming uses

A. Expansion

A nonconforming use shall not enlarge, increase in intensity, or expand to any structure or land area other than that occupied by the nonconforming use on the date the use became nonconforming.

B. No change in use

A nonconforming use of a building or lot may not change to another nonconforming use, whether or not the uses are in the same zoning classification.

C. Abandonment or discontinuance

A nonconforming use discontinued or abandoned for a period of twelve (12) months shall not be reestablished or resumed. Any subsequent use or occupancy of the land or structure shall comply with the regulations of the zoning district where the land or structure is located.

Section 6.4 Nonconforming lots

A. Applicability

This section applies to lots that are rendered unbuildable by the size and area provisions of this Code (referred to as “nonconforming lots”).

B. Use by Right

An owner of a nonconforming lot is entitled to build one single-family detached dwelling unit on the property, and is deemed to have a building permit.

C. Conditional Use

The Planning Board may process and approve a conditional use permit for any other use allowed in the applicable zoning district on a nonconforming lot (see Section 4.5 Conditional Use Permits).

Section 6.5 Nonconforming structures

A. Applicability

This section applies to any structure that lawfully exists on the effective date of this Code, which does not comply with a building height, setback, or other dimensional standard established by this Code .

B. Repair or alterations

1. Any nonconforming structure may be maintained, repaired or altered. However, except as provided in subsection 2, below, no maintenance, repair or alteration shall create an additional nonconformity, increase the degree of the existing nonconformity of all or any part of the structure, or increase the intensity of the use of the structure.
2. The footprint of a nonconforming structure may expand by up to ~~500~~1000 square feet. Prior to the expansion, the property owner shall notify the Zoning Administrator. The notification shall include the property’s address, the footprint of the existing structure, the footprint of the expansion, and a general description of the expansion.

C. Damage or destruction

A structure devoted in whole or in part to a nonconforming use which is destroyed by fire, explosion or other casualty, or the public enemy, may be restored and built back to its original placement.

D. Relocation

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 conforms to the regulations of the zoning district in which the structure is located after being relocated.

Section 6.6 Nonconforming situations

A. Applicability

This section applies to a nonconformity which does not involve a use or a structure (for example, a subdivision that was lawfully established or approved before the effective date of this Code).

B. Continuation

Nonconforming Situations may continue. However, changes which increase the nonconformity are not permitted.

Chapter 7 Enforcement

Section 7.1 Generally

The Zoning Administrator shall enforce this Code and to bring any known violation of this Code to the attention of the Prosecuting-Attorney, or the County Civil Attorney or his or her designated agent.

Section 7.2 Violations

A. The construction of any building or structure in violation of this Code is not permitted.

B. It is a violation of this Code to:

1. Establish a use not permitted in the applicable zoning district, or that does not have the necessary permits or development orders.
2. Violate a condition of zoning approval.
3. Establish impervious areas exceeding those allowed by this Code or application of the Site Evaluation Tool.
4. Establish dwelling units above the densities allowed by the applicable zoning district.
5. Establish floor area beyond that allowed by the applicable zoning district.
6. Exceed any building height established by this Code.
7. Encroach into a setback established by this Code.

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8. Otherwise develop a property or establish a use in violation of a requirement of this Code.

Section 7.3 Enforcement Process

The Pulaski County Planning Board may from time to time issue instructions and operating procedures to be followed in administering these regulations.

Section 7.4 Penalties

- A. Pulaski County may withhold addressing or the extension of utility services to any parcel or building created or constructed in violation of these regulations, until the violation is corrected.
- B. Any violation of this Code or amendment to this Code is a violation of County Ordinance under the laws of the State of Arkansas. The offender upon conviction shall be punished for a violation. Any courts having jurisdiction of violation cases shall have jurisdiction to try the offender, and upon conviction to fine them at least one hundred dollars (\$100.00) but no more than five hundred dollars (\$500.00) for each offense. Each day that any violation of this Code is in effect is a separate offense.

Chapter 8 Legal Provisions

Section 8.1 Coordination with Other Regulations

- A. This Code does not interfere with, abrogate or annul any ordinance, resolution, rules, regulations or permits that:
 1. Were previously adopted or issued, or that are adopted after the effective date of this Code, and
 2. Do not conflict with any of the provisions of this Code.
- B. This Code does not interfere with, abrogate or annul any ordinance, resolution, rules, regulations or permits governing building construction that do not conflict with this Code.
- C. This Code does not interfere with or abrogate or annul any easements, covenants or other agreements between parties. However, if this chapter imposes a greater restriction, this chapter controls.

Section 8.2 Effective Date

This Code becomes effective thirty (30) calendar days after its publication appeared, or _____, 2011.

Section 8.3 Severability

If any section, clause, part, or provision of this code shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, part, or provision of this Code.

Chapter 9 Administrative Agencies

Section 9.1 Quorum Court

The Quorum Court is principally responsible for establishing and adopting legislation. The Quorum Court has all of the duties assigned by ACA Title 14, Subtitle 2, Chapter 17.

Section 9.2 Planning Board

The Planning Board is established in Chapter 14 of the Pulaski County Code.

Section 9.3 Board of Zoning Adjustment

- A.** The Board of Zoning Adjustment hears appeals and variance applications pursuant to A.C.A. § 14-17-209 and Chapter 4 of this Code.
- B.** The Planning Board as a whole shall sit as the Board of Zoning Adjustment for Pulaski County.

Section 9.4 Zoning Administrator

- A.** The Zoning Administrator has the duty to process applications for development orders and permits, to enforce this Code, and any other duties assigned by this Code.
- B.** The Director of the Pulaski County Planning and Development Department is designated as the Zoning Administrator. The Zoning Administrator may designate any of its employees or officials to take any action assigned to the Zoning Administrator by this Code.

Chapter 10 Definitions & Rules of Interpretation

Section 10.1 General rules of interpretation

A. Usage

1. For the purpose of this code, certain numbers, abbreviations, terms, and words are used, interpreted, and defined as set forth in Subsection 10.2.
2. As used in this Code:
 - a. Words in the present tense include the future;
 - b. Words in the singular include the plural number;
 - c. Words in the plural include the singular;
 - d. The word “building” includes the word “structure”; and
 - e. The word “shall” is mandatory.

B. Commentary and Graphics

This code includes graphics and italicized commentary. These are for the convenience of the reader, and may assist interpreting this Code. However, if there is any inconsistency between a graphic or commentary and the regulatory text of this Code, the regulatory text controls.

Section 10.2 Definitions

Note: an asterisk () means that the definition is from the Subdivision and Development Code.*

Accessory*	All of the following conditions: <ol style="list-style-type: none">(1) Is subordinate to and serving a principal structure, principal building, or principal use;(2) Subordinate in area, extent or purpose to the principal structure, principal building, or principal use served;(3) Contributing to the comfort, convenience or necessity of occupants of the principal structure, principal building, or principal use; and(4) Located on the same lot as the principal structure, principal building or principal use.
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Accessory Building	A building that is accessory to a principal structure, principal building or principal use.
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Accessory Dwelling Unit	A Dwelling Unit that is Accessory to a Dwelling Unit on the same lot. An Accessory Dwelling Unit is located interior to the principal building or in a Building that is
--------------------------------	---

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

	detached from the main Dwelling Unit on the lot, and is not a mobile home.
Accessory Structure	A building or other structure that is accessory to a principal structure, principal building or principal use.
Accessory Use	A use that is accessory to a principal structure, principal building or principal use.
Active Channel	The area of the stream channel that is subject to frequent flows (approximately once per one and a half years), and that includes the portion of the channel below where the flood plain flattens.
Active Recreation	A park and recreational facility that is not dependent upon a specific environmental or natural resource, which is developed with recreation and support facilities that can be provided anywhere for the convenience of the user. Activity-based recreation areas include, but are not limited to, playgrounds, golf courses, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, tennis courts, picnic areas, playgrounds, and trails.
Agriculture	All operations necessary to farming in all of its branches, including maintenance of machinery or other facilities, and the planting, cultivating or growing, keeping for sale, harvesting, transporting on the farm or to the place of first processing, any tree, plant, animal, fowl, fish, insect or their products.
Alley*	A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
Applicant*	The owner of land subject to a proposal for a rezoning, conditional use permit, variance, appeal, building permit, or any other permit or order required by this Code, or the owner's representative.
Application	A request to approve any permit, order or authorization required by this Code, including any text amendment, rezoning, conditional use permit, site plan, or building permit.
Assembly	A club, lodge, meeting room, clubhouse, recreational building, community center, or place of worship.
Best Management Practices* or "BMPs"	Measures that are utilized to reduce pollutants in storm water runoff. An example of a "non-structural" BMP is limitations on the use of phosphate fertilizers on lawns, while an example of a "structural" BMP is a vegetated swale which slowly conveys runoff.
Bill of Assurance*	A private agreement attached to a plat, site plan, rezoning application, conditional use permit, or building permit which establishes property use and development rules specific to the properties in the particular subdivision and which may be binding upon subsequent owners of the property.

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 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
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Block*	A track of land bounded by streets, or by a combination of streets, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.
Building*	Any structure built for the support, shelter, or enclosure of persons, property of any kind including but not limited to animals and chattels.
Building Line*	A line across a lot establishing the minimum open space to be provided between the buildings and structures and the property line.
Camping, Primitive	An overnight camping facility with no improvements except those required by law, and that has no permanent structures other than tent platforms and maintenance buildings. Primitive Camping is designed and restricted to accommodate only persons using tents or similar apparatus, and does include spaces for motor vehicles (such as recreational vehicles), other than accessory parking spaces.
Cemetery	<u>Any burying place for the dead, a burial plot, a graveyard, or any land, public or private, dedicated and used for the interment of human or animal remains. A "cemetery" includes any crematorium, mausoleum, sales that are necessary to operate the cemetery (such as casket sales), and necessary maintenance facilities. This also includes mortuaries (i.e., facilities that are used to store human corpses awaiting identification, or removal for autopsy or disposal by burial, cremation or otherwise) that are operated within the boundary of the cemetery.</u>
Church	See "Assembly."
Club	<p>A "club" or "lodge" means a building owned, hired or leased by:</p> <ul style="list-style-type: none"> • A non-profit association of persons who pay annual dues, and where the premises are restricted to the members and their guests; • A private club organized to promote knowledge of and participation in the fine or performing arts, if revenue derived from the presence in the building of who are not members of the club is necessary and convenient to the club's program of support for the fine or performing arts. The building may include a venue for practice and performances, or facilities for the discussion, promotion and development of skills and interests in the fine or performing arts. <p>A club or lodge may include meeting rooms, and areas to prepare and serve food and meals to members or their guests.</p> <p>A Club is part of the more general use classification "Assembly."</p>
Clubhouse	A building or portion thereof, and related facilities such as food service, used by a club, fraternal organization, resort or golf community, or a membership organization.
Commercial*	Means the broad range of retail uses designed for the market.
Commercial Fueling	A facility with unattended gasoline, diesel, or other fuel pumps or dispensers,

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

	typically operated by the driver of the vehicle being fueled, with automatic billing through a credit card or debit card system.
Community Center	<u>A building or place publicly owned or operated or owned or operated by a neighborhood organization and used for meetings or activities of neighborhood organizations such as non-profit corporations; property owners associations; condominium associations; or similar entities.</u>
Conditional Use Permit	A permit approved, approved with conditions or denied by the Planning Commission in order to ensure that the requirements of this Code are observed (see Section 4.5).
Confined Animal Operation	A lot or facility where livestock, fowl, or other animals have been, are or will be stabled or confined and fed or maintained and where crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over significant portions of the lot or facility.
Condominium	<u>A condominium is one of a group of housing units where each homeowner owns their individual unit space, and all the dwelling share ownership of areas of common use.</u>
Controlled Burn	Prescribed burning conducted by forestry professionals according to Arkansas Forestry Commission guidelines.
Convenience Store	A store that offers for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales.
Conservation Easement	Refer to A.C.A. § 15-20-402. <i>(Note: the referenced definition is "a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open-space values of real property; assuring its availability for agricultural, forest, recreational, or open-space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, architectural, archeological, or cultural aspects of real property;")</i>
County*	The Pulaski County Government.
Day Care	<u>Any facility conducted under public or private auspices on a profit or nonprofit basis that provides:</u> <ul style="list-style-type: none"> • <u>a planned child development program or direct care and protection for children which requires licensing by the state (other than a licensed day care family home).</u> • <u>a planned care program giving direct care and protection for adults which requires licensing by the state. This use is limited to the numbers of adults and hours per day set forth within state licensing guidelines.</u>

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Pulaski County | Lake Maumelle Watershed Zoning Code
Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

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	<p><u>This definition does not include any facility which provides child care in a family setting within a care giver's family residence in accordance with licensing procedures established by the State of Arkansas (typically referred to as a "day care family home"), or babysitting. These are considered accessory to the residence, and are not regulated by this Code.</u></p>
Developer*	<p>The owner of land subject to an Application or his/her representative who is responsible for any undertaking that requires review and/or approval under this code. <u>A "developer" does not include a property owner who applies for a Family Exclusion transfer as provided in Section 1.9.E of the Subdivision and Development Code, or any person developing a lot that is subject to a family transfer.</u></p>
Development*	<p>A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure.</p>
Development Order	<p>An action of the Planning Board, Quorum Court, or Board of Zoning Adjustment that is part of the development approval process, but that does not directly authorize development. Examples include rezonings, conditional use permits, appeals, and variances.</p>
Duplex	<p>A structure that includes two Dwelling Units, each of which has direct access to the outside. Each Dwelling Unit in a Duplex is separated by either an un-pierced wall extending from ground to roof, or an un-pierced ceiling and floor extending from exterior wall to exterior wall.</p>
Dwelling Unit	<p>A single unit that:</p> <ul style="list-style-type: none">• Provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and• Is used, intended, or designed to be used, rented, leased, let or hired out to be occupied for living purposes. <p>A "Dwelling Unit" includes the following residential housing categories:</p> <ul style="list-style-type: none">• Manufactured Home• Mobile Home• Modular Home• Single-Family Detached Dwelling <p>The following residential categories include more than one Dwelling Unit in a single building:</p> <ul style="list-style-type: none">• Duplex• Apartment• Townhouse

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

Easement*	A grant of one or more property rights by a property owner to and/or for use by the public, a corporation, or another person or entity.
Electric Substation	<u>A facility (which may or may not contain buildings) where the interconnection and usual transformation of electrical service takes place between systems. An Electric Substation is secondary, supplementary, subordinate, and auxiliary to the main system. An "Electric Substation" does not include buildings or equipment for that generate electricity.</u>
Equipment, Agricultural	Tractors or implements, including self-propelled implements, and stationary equipment which are used in agriculture.
Equipment, Industrial	Equipment that is normally used in industrial or manufacturing uses, and that is not defined as Agricultural Equipment. Examples include forklifts, foundry machinery, hydraulic equipment, mechanical power transmission, mining machinery, printing or paper making machinery, rewinding armatures, textile machinery, boilers, compressors, blowers, refrigeration equipment, electrolytic or electric arc equipment, ovens, kilns, evaporators, dryers, and welding equipment.
Escrow*	A deposit of cash with the local government or escrow agent to secure the promise to perform specific improvement required by this code.
Extraterritorial Jurisdiction* or "ETJ"	That area, enabled by Arkansas Code Annotated (A.C.A.) §§ 14-56-401 ET. seq., that is located outside the corporate limits of a municipality and for which the municipality may prepare plans.
Farm supply or garden store	An establishment that is primarily engaged in retailing nursery and garden products, farm supplies, or animal (non-pet) feed. The establishment may also sell trees, shrubs, plants, seeds, bulbs, or sod that is grown elsewhere or onsite. Examples include: <ul style="list-style-type: none"> • Farm supply stores • Feed stores (except pet) • Garden centers • Lawn supply stores • Nursery and garden centers without tree production
Final Subdivision Plat*	The map of a subdivision to be recorded after approval by the Pulaski County Planning Board and any accompanying material as described in the Subdivision and Development Code.
Flood Plain*	Any land identified on a Flood Insurance Rate Map. Floodway (Regulatory Floodway). This includes the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
Footprint	The horizontal area measured within the outside of the exterior walls of the

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

	ground floor of a structure.
Forest	An area that (at maturity) is dominated by vegetation 15 feet or higher, with a typical minimum canopy of 70%. Forested areas are not subject to other uses, such as lawns, landscaped or mulched areas, maintained meadow/grassland, agriculture, pasture (with or without livestock) or other non-forest uses. Fruit orchards (which are an agricultural activity) are not considered forest. (Source: SET Manual).
Frontage*	That side of a lot abutting on a street; the front lot line.
Gas Station	A building whose principal activity is the selling of gasoline or other fuels, oil and related products for motor vehicles, and that may include light maintenance activities such as engine tune-ups, lubrication, and minor repairs incidental to the principal use. Gas stations do not include commercial refueling, heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work.
Grassland	Areas with grass, weeds, or brush receiving minimal management. "Minimal management" means that no fertilizer is applied, and that the area is mowed two times or less per year and bush-hogged nor more than once every two years. Grassland includes areas with widely spaced trees surrounded by grass, weeds or brushing including orchards. (Source: SET Manual)
Gross Residential Density	The number of dwelling units divided by the total land area subject to an application for approval of a development order or permit, stated as dwelling units per acre.
Guest Cottage	A building designed and reserved for temporary accommodations that includes lodging rooms and a common living area or kitchen. A guest cottage is distinguishable from a hotel in that it does not provide desk service within the building or any of the accessory uses listed for a hotel (see definition of "hotel," below).
<u>Hazardous Waste Site</u>	<u>Any "Site" as defined by the Arkansas Hazardous Waste Management Act of 1979 (ACA § 8-7-203).</u>
Holder	Refer to A.C.A. § 15-20-402. <i>(Note: the referenced definition is "(A) Any state agency, county, city of the first class or city of the second class, or incorporated town empowered to hold an interest in real property under the laws of this state or the United States; or (B) A charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property; assuring the availability of real property for agricultural, forest, recreational, or open-space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, architectural, archeological, or cultural aspects of real property..")</i>
Homeowners Association*	See Property Owners Association.
Hotel	A building in which lodging, with or without meals, is offered for compensation and access to units is primarily from interior lobbies, courts, or halls. A hotel includes desk services within the building, typically in a lobby. A hotel may include any or a

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

	<p>combination of the following accessory uses:</p> <ul style="list-style-type: none"> • Shops and services catering to guests within the building or within a development that includes the hotel, such as a resort; • Restaurants; or • Conference and meeting rooms; <p>A hotel does not include kitchen facilities in individual rooms.</p>
Impervious Area*	A surface area that does not allow rain to infiltrate into the ground, such as roads, streets, driveways with paving or gravel material, houses (rooftops), patios, outbuildings, and recreation facilities such as tennis courts, etc.
Improvements*	Any permanent structure that becomes part of, is placed upon, or is affixed to real estate.
Industrial*	A facility for light to heavy industrial uses.
Injection Well	A well utilized used to inject effluent or other substances into an aquifer for disposal purposes. <i>(Source: ACA § 15-76-302)</i>
In-Stream Gravel Mining	The removal of gravel deposits within the ordinary high water marks of a stream.
Land Application	<u>The application, spreading, or incorporation into the soil surface of manure, wastewater, or wastewater treatment sludge.</u>
Land Management Support Facility	A facility that is used to support or maintain a Nature Facility or Resource-Based Recreation. Examples include sheds, maintenance shelters, or maintenance storage yards that are accessory to the maintenance of these uses.
Land Use Plan	The adopted Pulaski County Comprehensive Land Use Plan and Land Use Controls for the <i>Lake Maumelle Watershed</i> .
Lawn / Managed Pervious Surface	Pervious developed areas subject to routine maintenance, including mowing, application of fertilizer, pasture with livestock, landscaped islands and trees with lawn underneath, stormwater BMPs, and similar areas. <i>(Source: SET Manual)</i>
Lodge	See "Club."
Local-serving commercial and retail	A use that is designated as a Commercial use in the Section 2.6 Section 2.6 , and that is within the floor area allocation established in the LI District.
Lot*	A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development.
Lot Size	The total horizontal area within the lot lines of a lot or parcel.
Manufactured Home	A dwelling unit that is built in a factory to the specifications of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§

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Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

5401 et seq., as amended) and the regulations promulgated by the United States Department of Housing and Urban Development thereto (24 C.F.R. part 3282), commonly known as the "HUD Code"

Medical Waste Site Any area, site or facility that treats or disposes of medical waste, as defined by the Arkansas Pollution Control and Ecology Commission, Regulation No. 22. This includes any "commercial medical waste incineration facility" as defined by ACA § 8-6-1302.

Meeting RoomHall A private or quasi-private building designed and used for meetings, banquets, receptions, weddings, or social events. A Meeting ~~Room~~Hall may be available to the public for rental or reserved for defined groups or organizations. Examples include private bridge club type card rooms, wedding halls, and banquet halls. A Meeting ~~Room~~Hall is part of the more general use classification "Assembly."

Mining Excavation or extraction of sand, gravel, clay, stone, minerals, oil or gas or commercial purposes. Mining includes common methods as contours strip, auger, box cut, open pit, and area mining, but not mountaintop removal, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, the loading of the minerals or fuel substances at or near the mine site. A mining use includes the area upon which activities occur or where activities disturb the natural land surface. Mining includes adjacent land used for incidental activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of activities and for haulage, and excavations, working, impoundments, dams, ventilation shafts, entry ways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to these activities.
(Note: compare ACA § 15-57-303 [defining open-cut mining], 15-58-104 [defining surface coal mining activities])

Mining, Subsurface Mining that occurs underground or below the land surface by means of shafts, tunnels or other underground mine openings.

Mining, Open Pit Any open excavation, prospect opening, pit, bank, or open-cut workings for the surface extraction of minerals, stone, or other product for commercial use. (Source: ACA § 20-27-1302)

Mining, Surface Mining conducted that occurs on or near the land surface. This includes the extraction of minerals from the earth, from waste or stockpiles or from pits or from banks by removing the strata or material that overlies or is above or between them or otherwise exposing and retrieving them from the surface. This includes strip mining, auger mining, dredging, quarrying and leaching and all surface activity connected with these activities.

Mobile Home A dwelling unit that is built in a factory, but is not a Manufactured Home or a

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Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

	Modular Home. These are typically older units that were manufactured before the effective date of the HUD Code.
Mobile Home Park	A plot or tract of land which is separated into two (2) or more spaces or lots which are rented or leased or offered for rent or lease to persons for the installation of manufactured homes for use and occupancy as residences.
Modular Home	A dwelling unit that is built in a factory, and that complies with the County building code or a municipal building code.
Multi-family*	A structure designed for two or more families.
Natural Gas Regulating Station	<u>A system of pipes, valves and meters within a natural gas local distribution system that control the pressure of natural gas that is moving through the system.</u>
Nature facility	An establishment that exhibits natural areas or settings, such as bird sanctuaries, conservation areas, nature interpretive centers, nature centers, nature parks, nature preserves, nature reserves, nature parks, or wildlife sanctuaries.
Non-Residential Development*	Any development whose intended use is other than residential, such as office, commercial or industrial.
Normal Stream Waterline	The part of a water course that contains an intermittent or perennial base flow of groundwater origin. This applies to any water course, whether naturally or artificially created. Base flows of groundwater origin can be distinguished by any of the following physical indicators: <ul style="list-style-type: none"> • Hydrophytic vegetation, hydric soil or other hydrologic indicators in the area(s) where groundwater enters the stream channel, in the vicinity of the stream headwaters, channel bed or channel banks, or • Flowing water not directly related to a storm event, or • Historical records of a local high groundwater table, such as well and stream gauge records.
Office*	A place for the regular transaction of business. This does not include the occupation by retail sales, transfer of manufactured goods or storage of commodities, or medical offices or medical clinics.
Open Space	Any land or area that, if preserved, would: <ul style="list-style-type: none"> • Conserve and enhance natural or scenic resources; or • Protect streams or water supply; or • Promote conservation of soils or wetlands, • Enhance the value to the public of abutting or neighboring trails, parks, forests, wildlife preserves, nature reservations, or sanctuaries; or • Enhance recreation opportunities.
Open Space, Common	Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk () means that the definition is from the Subdivision and Development Code.*

	common ownership, use and enjoyment of the residents of the development.
Open Space, Required	Open space that is designated on a site plan or subdivision plat as the open space area that meets the minimum amount of open space required to meet the density and open space standards of the LI District (§2.3D4D).- This term does not apply to open space that is beyond that required by the density option in § 2.34.D.
Open Space, Undisturbed	See Section 3.6 Open Space Standards Section 3.6 Open Space Standards (See Table 6).
Open Space, Useable	See Section 3.6 Open Space Standards Section 3.6 Open Space Standards .
<u>Outdoor Storage</u>	<u>The keeping of any goods, junk, equipment, parts, material, or merchandise in an unroofed area for more than twenty-four (24) hours.</u>
<u>Outdoor Sale or Disposal</u>	<u>A business that sells merchandise that it stores or displays in an unroofed area.</u>
Owner*	An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.
Parcel	An area of land defined by a legal description and recorded with the County Recorder's Office.
Permit	A Building Permit or Conditional Use Permit.
Percent Impervious*	The ratio of the square foot of Impervious Areas in an area to the total square footage in the same area, expressed as a percentage.
<u>Place of Worship</u>	<u>Any building principally used for religious worship including churches, synagogues, mosques, and similar buildings, and including accessory uses such as parish houses, Sunday school buildings, convents, cemeteries located on the same lot, bookstores inside the church building, and child care on the premises during worship services. This does not include worship activities that occur in a dwelling unit (such as bible study), which are not regulated by this Code.</u>
Planning Board*	The Pulaski County Planning Board.
Pulaski County Planning and Development Director* or "Planning Director"	The person designated by the Pulaski County Planning Board to administer and enforce these regulations (also referred to as Director of the Department of Planning and Development).
Police or Fire Station	A building (including any accessory structures or land) operated by a governmental agency that is designed, developed and used to provide law enforcement, fire protection, or similar public safety services. The building, land and accessory structures may include any of the following: <ul style="list-style-type: none"> • Administrative offices, • Equipment storage, • Temporary detention facilities,

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Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk () means that the definition is from the Subdivision and Development Code.*

- Open or enclosed parking of patrol vehicles, pump or ladder trucks, or other safety services vehicles
- Air unit services,
- Hand crew services,
- Dispatch services,
- Repair shop services, or
- Central training services.

This use does not include correctional institutions.

Power Plant A facility that converts one or more energy sources, including but not limited to water power, fossil fuels, nuclear power, or solar power, into electrical energy or steam. A power plant may also perform either or both of the following:

- operation of a transmission system that conveys the energy or steam from the generation facility to a power distribution system; or
- operation of a distribution system that conveys energy or steam from the generation facility or the transmission system to final consumers.

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Preliminary Plat* The preliminary drawing or drawings, described in the Subdivision and Development Code, indicating the proposed manner or layout of the subdivision to be submitted to the Pulaski County Planning Board for approval.

Property Owners Association* or "POA" An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision is automatically a member as a condition of ownership.

Public Enemy Those people with whom the United States is at war. This phrase does not include thieves, mobs, rioters, or insurgents.

Public Hearing* A meeting announced and advertised in advanced and open to the public, with the public given an opportunity to talk and participate.

Recreational Building A private building for use solely by the residents and guests of a particular residential development that includes indoor and outdoor recreational facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to the development.

Quadrowplex* A structure designed for four families.

Quarry or Quarrying See "Mining, Open Pit."

Radio, TV, or wireless transmitter Facilities that provide broadcasting and other information relay services through electronic and telephonic mechanisms. This does not include wireless communications- towers or wireless communications attached to another principal structure. Typical uses include television studios, telecommunication service centers, or telegraph service offices.

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk () means that the definition is from the Subdivision and Development Code.*

Recreation, Resource-Based	<p>A facility principally devoted to recreational or leisure activities that occur outdoors, and that is located due to the presence of a particular natural or environmental setting (such as a forest, lake or stream). Examples include trails, picnic areas, fishing and boat launch areas, primitive camping, or nature study.</p> <p>This use does not include mechanical rides, water rides, games, shows, theme exhibits, refreshment stands, or establishments that lease space to others on a concession basis.</p>
Regional Power Transmission Line	<p>A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more, and:</p> <ul style="list-style-type: none"> • Exceeding 100 miles in length; or • Having a corridor or right-of-way exceeding 100 feet in width for a transmission line at any point within the jurisdiction of this Code.
Responsible Management Entity (RME)*	<p>The Little Rock Wastewater Utility, or such entity designated by the County for overseeing design, installation, operation, and/or maintenance of Force Line Systems and On-Site Systems in the watershed of a public water supply reservoir. For purposes of Section 3.6, the “RME” means the County, Central Arkansas Water, or other entity with responsibility to maintain open space.</p>
Restaurant	<p>An establishment serving food and beverages where all service takes place within an enclosed building or accessory outdoor eating or food dispensing areas.</p>
Right-of-Way*	<p>A strip of land acquired by negotiations, reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, gas pipelines, water lines, sanitary storm sewer, or other similar uses.</p>
Roadside Stand	<p>A direct retail establishment that:</p> <ul style="list-style-type: none"> • Sells on-farm produced or locally produced agricultural products (not in canned or frozen packages) or handmade crafts; and • Does not include a permanent structure; and • Only offers outdoor shopping; and • Is seasonal in nature.
Sale or Lease*	<p>Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot block description.</p>
Schools	<p>An institution or place for instruction or education, such as kindergarten, elementary, middle or junior high school, high school, college or university.</p>
Security Quarters	<p>A residence located on a premises with a main nonresidential use and occupied only by a caretaker or guard employed on the premises.</p>
Setback*	<p>The distance between a building and any lot line.</p>

Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

Note: an asterisk (*) means that the definition is from the Subdivision and Development Code.

<u>Single-Family Attached Dwelling or Townhouse</u>	<u>A row of at least Single-Family Dwellings that are attached by any means, with each dwelling unit having front and rear access to the outside. (Note: if only 2 units are attached, the unit is defined as a Duplex and if only 3 units are attached, the unit is a Triplex.)</u>
Single-Family Detached Dwelling	A Single-Family Dwelling that is not attached to any other Dwelling by any means and is surrounded by open space or yards.
Single-Family* Dwelling	A structure designed for one family.
Site Evaluation Tool* or "SET Tool"	An computer based spreadsheet modeling tool developed specifically for evaluating the impacts of alternative conservation design approaches on runoff and pollutant loading rates for total phosphorus, total sediment, and total organic carbon within the watershed of a public water supply reservoir. The Site Evaluation Tool is adopted by Chapter 8 of the Subdivision and Development Code. The SET Tool is incorporated by reference and made a part of this Code.
SET Manual	The document published by the Pulaski County Planning & Development <u>Department</u> titled <i>Site Evaluation Tool User Guidance and Documentation For the Lake Maumelle Drainage Basin</i> Basin Watershed Pulaski County, Arkansas (April 2010), which is incorporated in this Code by reference.
Site Plan*	A layout of a proposed development indicating proposed improvements as so indicated in the Subdivision and Development Code.
<u>Solid Waste Landfill</u>	<u>A land area or excavation that receives solid waste (as defined by the Arkansas Pollution Control and Ecology Commission, Regulation No. 22) for disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257.2.</u>
Store or Shop	A commercial enterprise that sells groceries, health and personal care items, pharmaceuticals, cosmetic and beauty supplies, optical goods, and similar items. This classification includes any Convenience Store.
Street*	A dedicated and accepted right-of-way for vehicular traffic which affords the principle means of access to abutting property.
Structure*	Anything constructed or erected.- It includes any: <ul style="list-style-type: none"> • Building; • Fence; • Wwimming <u>Swimming</u> pool; • Tennis court; • Pole; • Pipeline or transmission line, or track;

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Pulaski County | Lake Maumelle Watershed Zoning Code
 Chapter 10 Definitions & Rules of Interpretation | Section 10.2 Definitions
Draft-For Discussion Only

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	<ul style="list-style-type: none"> • Sign; • Shed, dock, or other accessory construction. <p>A “structure” does not include decorative landscaping features such as a pond, bird feeder, pervious paver, or similar natural or pervious decorative landscaping feature.</p> <p>All buildings are structures, but not all structures are buildings.</p> <p>A reference in this Code to a “structure” means either the entire structure or part of the structure, unless otherwise stated.</p>
Subdivide*	The act or process of creating a “subdivision” as defined in the Subdivision and Development Code.
Timbering	<p><u>Establishments involved in:</u></p> <ul style="list-style-type: none"> • <u>forestry and logging, which includes operations that grow and harvest timber on a long production cycle (i.e., of 10 years or more), and</u> • <u>establishments that grow trees on short production cycles, such as Christmas tree production</u>
Townhouse	See “Single-Family Attached Dwelling.”
Tract*	The term “tract” is used interchangeably with the term “lot” particularly in the context of a subdivision, where a “tract” is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interest.
Triplex*	A structure designed for three families.
Undisturbed Area*	The area that is designated within an approved plat as undisturbed area.
Unroofed Area	<u>An area that is not covered by a permanent, weather resistant material or covering.</u>
Use Permit	See “Conditional Use Permit.”
Utility Lines	<u>Pipes, cables, wires, or similar conduits that transport convey utilities such as water, sewer, electrical energy, telephone, telegraph, and cable television. This term includes electric lines, phone and cable lines, distribution circuits, gas and fuel lines, water lines, steam and air conditioning lines, irrigation channels, and sewer and waste water lines. Related appurtenances include pumps, circuits, valves, equipment boxes, or similar equipment that is needed to convey the utilities, energy, or communications data through the conduits.</u>
Visitor Facility	A building or structure that provides information, bathrooms, food service, groceries or similar items, and other services for persons who are visiting a Resource-Based Recreation facility, Nature Facility, or Golf Course.

Note: an asterisk () means that the definition is from the Subdivision and Development Code.*

<u>Waste Collection, Processing, or Treatment Facilities</u>	<p><u>Includes any:</u></p> <ul style="list-style-type: none"> • <u>Facility or group of units used to collect or treat industrial or domestic wastewater for sewer systems.</u> • <u>Facility that reduces and handles solids and gases removed from wastewater.</u>
<u>Water Distribution System</u>	<p><u>Any system, equipment or structure that collects or distributes potable water. This includes a water tank, pumps, tower and other storage facility, and transmission and distribution mains. This definition does not include a water treatment plant.</u></p>
Watershed*	<p>Means all the land area that contributes runoff to a surface water.</p>
<u>Wireless Communications</u>	<p><u>Any personal wireless service as defined in the federal Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.</u></p>
<u>Wireless Communications Facility or "WCF"</u>	<p><u>Any unstaffed facility for the transmission or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation. This includes any structure used to contain ancillary equipment for a WCF that includes cabinets, shelters, cable ice bridge, a build-out of an existing structure, pedestals, and other similar structures. For purposes of this definition:</u></p> <ul style="list-style-type: none"> • <u>Antenna array means one (1) or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omni directional antenna (rod), a directional antenna (panel) and a parabolic antenna (disc). The antenna array does not include the support structure defined below.</u> • <u>Equipment facility means any structure used to contain ancillary equipment for a WCF that includes cabinets, shelters, cable ice bridge, a build-out of an existing structure, pedestals, and other similar structures.</u> • <u>"Support structure" means a structure designed and constructed specifically to support an antenna array, and may include a monopole, rooftop or ground-mounted tower, self supporting (lattice), guy-wire supported towers, or similar structures. This does not include a device used to fasten an attached WCF to an existing building or structure.</u>
Zoning Administrator	<p>The Director of the Pulaski County Department of Planning and Development, or his or her designee.</p>

Section 10.3 Interpretation of Zoning Map

If uncertainty exists about the boundaries of a district shown on the zoning map, the following rules apply:

- A.** The district boundaries are street or alley centerlines unless otherwise shown. Where the districts designated on the Official Zoning Map are bounded approximately by street or alley centerlines, the street or alley centerline is the district boundary.
- B.** Where the district boundaries are not otherwise indicated and where the property has been or may be divided into blocks and lots, the district boundaries are the lot lines. Where the districts designated on the Official Zoning Map are bounded approximately by lot lines, the lot lines are the district boundary unless the boundary is otherwise indicated on the Official Zoning Map.
- C.** In subdivided property, the district boundary lines on the Official Zoning Map are determined by using the scale contained on the Official Zoning Map.
- D.** For the Low Impact Planned Residential Development (LI) and Conservation (C) districts, if the district boundary as shown on the Official Zoning Map is uncertain, the district boundary is determined by the recorded deed or other conveyance instrument of any property held in fee simple by an approved RME.