



# City of Fayetteville, Arkansas

113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

## Legislation Text

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**File #:** 2024-1834

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**ADM-2024-0008: Administrative Item (Amend UDC CHAPTER 161.32 – P-1, INSTITUTIONAL): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to UDC Chapter 161.32 – District P-1, Institutional. The proposed code change would modify existing setbacks and allow administrative approval if the developer decides to use urban form.**

AN ORDINANCE TO AMEND §161.32 DISTRICT P-1, INSTITUTIONAL OF THE UNIFIED DEVELOPMENT CODE

**WHEREAS**, the intent of P-1 zoning districts is to protect and facilitate the use of property owned by larger public institutions and church-related organizations; and

**WHEREAS**, staff has identified opportunities to amend § 161.32 **District P-1, Institutional** to align with the district's stated intent and the requirements for other zoning districts; and

**WHEREAS**, the proposed changes will better align P-1 zoning district setback and minimum building height requirements with those of other zoning districts, add two additional conditional uses, and increase flexibility for development in various contexts; and

**WHEREAS**, staff and the Planning Commission recommend approval of the proposed changes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 161.32 **District P-1, Institutional** and enacts a new § 161.32 **District P-1, Institutional** as shown in Exhibit A attached hereto.



**MEETING OF APRIL 2, 2024**

**TO:** Mayor Jordan and City Council

**THRU:** Susan Norton, Chief of Staff  
Jonathan Curth, Development Services Director

**FROM:** Jessica Masters, Development Review Manager

**SUBJECT:** **ADM-2024-0008: Administrative Item (Amend UDC CHAPTER 161.32 – P-1, INSTITUTIONAL): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to UDC Chapter 161.32 – District P-1, Institutional. The proposed code change would modify existing setbacks and allow administrative approval if the developer decides to use urban form.**

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**RECOMMENDATION:**

City staff and the Planning Commission recommend approval of an amendment to the Unified Development Code amending §161.32, P-1 Institutional, as shown in Exhibit A.

**BACKGROUND:**

The City of Fayetteville Department of Parks, Natural Resources, and Cultural Affairs is proposing to rezone approximately 2,400 acres of parkland to P-1, Institutional to align those properties' zoning district with their current use (RZN-2024-0007). In tandem with this request, staff evaluated the P-1 zoning district and identified the opportunities to both align the setback requirements of P-1 with similar regulations in other zoning districts and insert flexibility for development in varying contexts.

**DISCUSSION:**

The stated intent of the P-1 zoning district is to “protect and facilitate use of property owned by larger public institutions and church related organizations.” Staff identified four areas that may conflict with that intent:

1. Institutions (i.e., cultural and recreational facilities, religious institutions, and governmental buildings) can build in other zoning districts where those uses are allowed by-right, but with more flexible standards;
2. P-1 has no form-based option allowing buildings and facilities to address and interact with public streets;
3. Current setbacks are more restrictive in P-1 than what is permitted in other zoning districts for the same uses; and
4. Uses allowed in the P-1 zoning district only permit activities that are accessory to the primary use, such as a religious institutions daycare, but not those that can be complimentary, like small-scale businesses or services.

P-1, Institutional is limited to the following by-right uses: Use Units 1, City-Wide Uses By Right, 4, Cultural and Recreational Facilities, 5, Government Facilities, and 46, Short-Term Rentals. As a matter of comparison, the C-2, Thoroughfare Commercial zoning district allows those same uses, also by-right, and offers the flexibility to construct these with a form-based option (or a build-to-zone), allowing for administrative approval when taking that option. Currently, institutional uses developing under P-1 zoning do not have the opportunity even if the

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property's is an urban or more direct publicly-interacting context. Further, the existing traditional setbacks are more restrictive in P-1 zoning than in C-2 zoning, requiring 30-foot front, 20-foot side, and 25-foot rear when C-2 would allow for 15-foot, 0-foot, and 20-foot rear setbacks.

Staff also found an inconsistent approach to maximum building heights when compared to other zoning districts. There is not currently a standard building height maximum allowance in P-1, though there are additional setback requirements for structures over 2 stories. Staff recommends aligning these requirements with those of the C-2 zoning district to ensure the City is applying a consistent requirement for these institutional uses when they are in different zoning districts; C-2 has a 6-story height limitation, with additional setbacks when adjacent to residential properties. It is worth noting that generally, height restrictions in zoning ordinance do not apply to spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Staff finds that given this allowance, limiting institutional uses to the same building height requirements as permitted in other zoning districts would not conflict with those appurtenances often associated with religious or other institutional uses.

Further, staff recommends the addition of two new conditional uses in the P-1 zoning district to ensure that the district continues to align with its intent to serve institutional uses and cultural and recreational facilities. Firstly, Use Unit 20 consists of commercial recreation facilities which are usually conducted out-of-doors, on large sites, and in undeveloped, outlying parts of the city, which may align with future development plans for properties being used for recreational purposes. Secondly, staff recommends the addition of Use Unit 12b, which would allow for small-scale retail or other uses that may help serve existing institutional uses. Staff finds that keeping these uses as conditional still allows for additional discretionary approval, and an overall evaluation of specific sites and overall compatibility as far as traffic, nuisance, and the public interest are concerned, so as not to conflict with the zoning district being typically reserved solely for those institutional purposes.

At the March 11, 2024 Planning Commission meeting, Commissioners unanimously voted to forward the proposed ordinance changes to the City Council with a recommendation of approval. Commissioner Madden made the motion, which was seconded by Commissioner Garlock. Commissioners asked Alison Jumper, the Director of Parks, Natural Resources, and Cultural Affairs, to confirm how these changes benefited the Parks Department, and she indicated that these setbacks would be less restrictive, and that they were born out of conversations with Planning staff. Commissioners also had questions regarding special events, and staff confirmed that special events were handled through a separate process, depending on the overall scale. One member of the public spoke at the meeting with questions about how the changes would affect their property, which they indicated was adjacent to Centennial Park. Staff indicated that unless the property is currently zoned P-1, then there would not be an immediate effect, but that the changes in setback may affect how closely a P-1 property could build to the adjacent property. The member of the public was not aware what their property was zoned and offered no objections to the changes.

**BUDGET/STAFF IMPACT:**

N/A

**ATTACHMENTS:** SRF (#3), Exhibit A (#4), P-1 Ordinance Language Change - Strikethrough (#5), Planning Commission Staff Report (#6)

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**TO:** Fayetteville Planning Commission

**FROM:** Jessie Masters, Development Review Manager

**MEETING DATE:** March 11, 2024 **Updated with results from 3/11/2024 PC Meeting**

**SUBJECT:** **ADM-2024-0008: Administrative Item (Amend UDC CHAPTER 161.32 – P-1, INSTITUTIONAL):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to UDC Chapter 161.32 – District P-1, Institutional. The proposed code change would modify existing setbacks and allow administrative approval if the developer decides to use urban form.

**RECOMMENDATION:**

Staff recommend forwarding **ADM-2024-0008** to the City Council with a recommendation of approval.

**RECOMMENDED MOTION:**

*“I move to forward **ADM-2024-0008** to the City Council with a recommendation of approval.”*

**BACKGROUND:**

The City of Fayetteville Department of Parks, Natural Resources, and Cultural Affairs is proposing to rezone over 2,000 acres of parks-owned property to P-1, Institutional to align those properties’ zoning district with their current use (RZN-2024-0007). In tandem with this significant request, staff evaluated the P-1 zoning district and identified opportunities to align the requirements of P-1 with allowable setbacks and regulations for the same uses in other zoning districts.

**DISCUSSION:**

The stated intent of the P-1 zoning district is to “protect and facilitate use of property owned by larger public institutions and church related organizations.” Staff identified 3 areas of interest in evaluating this zoning district that may conflict with that intent:

1. Institutions (i.e., cultural and recreational facilities, religious institutions, and governmental buildings) can still build in other zoning districts where those uses are allowed by-right;
2. P-1 has no form-based option;
3. Current setbacks are more restrictive in P-1 than what is permitted in other zoning districts for the same uses.

P-1, Institutional is limited to the following by-right uses: Use Units 1, City-Wide Uses By Right, 4, Cultural and Recreational Facilities, 5, Government Facilities, and 46, Short-Term Rentals. As a matter of comparison, the C-2, Thoroughfare Commercial zoning district allows those same uses, also by-right. C-2, however, offers the flexibility to construct these with a form-based option (or a build-to-zone), allowing for administrative approval when taking that option. Currently, institutional uses developing under P-1 zoning would not have the opportunity. Further, the existing traditional setbacks are more restrictive in P-1 zoning than in C-2 zoning, requiring 30-foot front, 20-foot side, and 25-foot rear when C-2 would allow for 15-foot, 0-foot, and 20-foot rear setbacks.

Staff also found an inconsistent approach to maximum building heights when compared to other zoning districts. There is not currently a standard building height maximum allowance in P-1, though there are additional setback requirements for structures over 2 stories. Staff recommends aligning these requirements with the C-2 zoning district to make sure the City is applying a consistent requirement for these institutional uses when they are in different zoning districts; C-2 has a 6-story height limitation, with additional setbacks when adjacent to residential properties. It is worth noting that generally, height restrictions in zoning ordinance do not apply to spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Staff finds that given this allowance, limiting institutional uses to the same building height requirements as permitted in other zoning districts would not conflict with those appurtenances often associated with religious or other institutional uses.

Further, staff recommends the addition of two new conditional uses in the P-1 zoning district to ensure that the district continues to align with its intent to serve institutional uses and cultural and recreational facilities. Firstly, Use Unit 20 consists of commercial recreation facilities which are usually conducted out-of-doors, on large sites, and in undeveloped, outlying parts of the city, which may align with future development plans for properties being used for recreational purposes. Secondly, staff recommends the addition of Use Unit 12b, which would allow for small-scale retail or other uses that may help serve existing institutional uses. Staff finds that keeping these uses as conditional still allows for additional discretionary approval, and an overall evaluation of specific sites and overall compatibility as far as traffic, nuisance, and the public interest are concerned, so as not to conflict with the zoning district being typically reserved solely for those institutional purposes.

**RECOMMENDATION: Staff recommends forwarding ADM-2024-0008 to City Council with a recommendation of approval.**

<b>PLANNING COMMISSION ACTION:</b>				<b>Required</b>	<b><u>YES</u></b>
<b>Date:</b> <u>March 11, 2024</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied		
<b>Motion:</b> <span style="color: red;">Madden</span>					
<b>Second:</b> <span style="color: red;">Garlock</span>					
<b>Vote:</b> <span style="color: red;">9-0-0</span>					

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- UDC §161.31 District P-1, Institutional (Current regulations)
- UDC §161.23 District C-2, Thoroughfare Commercial
- Proposed Ordinance, Clean
  - §161.31 District P-1, Institutional
- Proposed Ordinance, Strike-through
  - §161.31 District P-1, Institutional

**161.32 District P-1, Institutional**

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	30 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	20 feet
Side, when contiguous to a residential district	25 feet
Rear	25 feet
Rear, from center line of public alley	10 feet

(F) *Height Regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §8, 1-18-22)

**161.23 District C-2, Thoroughfare Commercial**

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments

Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	15 feet
Rear	20 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between 10 feet and a line 25 feet from the front property line
Side and rear	None
Side or rear, when contiguous to a single-family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	6 stories*
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\* If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 6, 7, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §5, 1-18-22)

**161.32 District P-1, Institutional**

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 12b	General Business
Unit 20	Commercial recreation, large sites
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	15 feet
Rear	20 feet

**Urban Form Setback Regulations**

Front	A build-to-zone that is located between 10 feet and a line 25 feet from the front property line
Side and rear	None

Side and rear, when contiguous to a single-family residential district	15 feet
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(F) *Building Height Regulations.*

Building Height Maximum	6 stories*
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\* If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §8, 1-18-22)

**161.32 District P-1, Institutional**

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
<u>Unit 12b</u>	<u>General Business</u>
<u>Unit 20</u>	<u>Commercial recreation, large sites</u>
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

<u>Front</u>	<u>30-feet</u>
<u>Front, if parking is allowed between the right-of-way and the building</u>	<u>50 feet</u>
<u>Side</u>	<u>20-feet</u>
<u>Side, when contiguous to a residential district</u>	<u>25-feet</u>
<u>Rear</u>	<u>25-feet</u>
<u>Rear, from center line of public alley</u>	<u>40 feet</u>

<u>Front</u>	<u>15 feet</u>
<u>Front, if parking is allowed between the right-of-way and the building</u>	<u>50 feet</u>
<u>Side</u>	<u>None</u>
<u>Side, when contiguous to a residential district</u>	<u>15 feet</u>
<u>Rear</u>	<u>20 feet</u>

Urban Form Setback Regulations:

<u>Front</u>	<u>A build-to zone that is located between 10 feet and a line 25 feet from the front property line</u>
<u>Side and rear</u>	<u>None</u>
<u>Side or rear, when contiguous to a single-family residential district</u>	<u>15 feet</u>

(F) Height Regulations. There shall be no maximum height limits in P-1 Districts, provided, however, if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(F) Building Height Regulations.

<u>Building Height Maximum</u>	<u>6 stories*</u>
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(G) Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §8, 1-18-22)

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