

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO
AMEND VARIOUS SECTIONS OF THE CITY CODE CHAPTER 30, TO MODIFY
ADMINISTRATIVE ADJUSTMENT STANDARDS FOR UTILITY COMPANIES (Section
5 of draft ordinance hearing 5/22/2017)**

WHEREAS, the City of Fayetteville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the City's zoning regulations was adopted on December 13, 2010, and is codified in Chapter 30 of the Fayetteville City Code (herein "Unified Development Ordinance"), and maps dividing and classifying the property within the City's zoning jurisdiction were adopted on July 25, 2011, and are on file and maintained in the offices of the Fayetteville Development Services Department (herein "Official Zoning Maps"); and

WHEREAS, the Fayetteville City Council held a public hearing on May 22, 2017, to consider amending certain provisions of the Unified Development Ordinance in Chapter 30-3.H Overlay Zoning Districts; and

WHEREAS, following the public hearing, the Fayetteville City Council determined that the proposed amendment is in the interest of the public health, safety and welfare; it is supported by adopted plans; and it is consistent with state law;

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

Be it ordained by the City Council of the City of Fayetteville, North Carolina, that the Code of Ordinances of the City of Fayetteville and as subsequently amended, be amended as follows:

Section 1. Modify Section 30-4.D.3.m, subsection (6) Outdoor Storage, as follows, to enable administrative exceptions for utility companies who must be prepared to provide services during an emergency. Further, modify Section 30-2.C.16 Administrative Adjustment, to acknowledge applicability of the process for utilities providing services during emergencies:

Section 1a. Modify Section 30-2.C.16 Administrative Adjustment, to acknowledge applicability of the process for utilities providing services during emergencies:

30-2.C.16.b Applicability

Administrative Adjustments may be requested and granted for deviations from numerical standards of up to ten percent in accordance with Section

30-2.C.16.e, Administrative Adjustment Standards. Furthermore, this section is intended to provide for consideration of alternative designs, solutions or plans to address unusual circumstances, adjustments needed to support critical utility emergency services, and to promote creative design in the pursuit of excellence in development. As applied to utilities and provision of critical services during emergencies, an Administrative Adjustment may be requested for such standards as outdoor storage and **other requirements impacting the ability to provide or restore service** during emergencies; conditions to assure safe and attractive facilities relative to surrounding development may be part of the approval. As applied to separation standards, except when a reduction in the separation standard is explicitly precluded by Section 30-4.C, an Administrative Adjustment may be requested to include up to a ten percent reduction in separation standards when natural or man-made elements achieve the same intent and effects of the required separation and the requested adjustment are in accordance with Section 30-2.C16.e.

Section 1b. Modify Section 30-4.D.3.m, subsection (6) Outdoor Storage, as follows, to enable administrative exceptions for utility companies who must be prepared to provide services during an emergency.

m. Outdoor Storage

Outdoor storage may be allowed as an accessory use in accordance with the following standards. Utilities may request an administrative adjustment from the city manager (see Sec. 30-2.C.16 Administrative Adjustment) for one or more of these standards if the exception is necessary to enable the utility to provide service during emergencies; such approval may include conditions (e.g., additional screening; separation from residential areas; containment for above ground fuel storage):

1. Each outdoor storage area shall be incorporated into the overall design of the principal structure on the site and shall be shown on a site plan if one is required.
2. Outdoor storage areas shall be located to the side or rear of the principal structure.
3. Goods stored in an outdoor storage area intended for sale or resale shall be limited to those sold on the premises as part of an associated, additional principal use.
4. Except in the HI district when the storage area is not adjacent to a street or a more restrictive district, each outdoor storage area shall be screened from view from all property lines and adjacent right-of-way by an opaque fence or wall that is at least six feet high in side yards and eight feet high in rear yards, and incorporates at least one of the predominant materials and one of the predominant colors used in the primary structure. Materials may not be stored higher than the height of the primary structure. A landscaped earth berm may be used instead of or in combination with a fence or wall.
5. If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.
6. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.
7. No materials may be stored in areas intended for vehicular or pedestrian circulation.

Explanation: This change would involve two Code sections . In 30-2.C.16 regarding Administrative Adjustment, the change authorizes use of this tool when a standard prevents a utility from providing or restoring critical service following an emergency. The second change is in Sec. 30-4.D.3 Outdoor Storage, to make it clear this tool is especially applicable to this section in supporting efforts to restore critical services.

Section 2. The City Clerk is hereby authorized to revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the material terms of this Development Ordinance.

Section 3. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

Adopted this the 26 day of June, 2017.

City of Fayetteville, NC

Nat Robertson, Mayor

ATTEST:

Pamela J. Megill, City Clerk