

ORDINANCE NO. 2004-14

AN ORDINANCE AMENDING CITY OF OZARK ORDINANCE NO. 158; ESTABLISHING, CONFIRMING, AND ADOPTING A REVISED ZONING PLAN AND A REVISED ZONING MAP; DECLARING AN EMERGENCY THEREFORE; AND FOR OTHER PURPOSES.


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

SECTION 1: The City of Ozark zoning plan and zoning maps as adopted by Ordinance No. 158 in 1966, and as amended and modified by subsequent Ordinances, shall be and hereby are amended. Such amended zoning plan and map are set forth in the revised plan and map, attached hereto and adopted by reference. Such plan and map set forth the entire revised zoning plan and map for the City of Ozark, Arkansas.


SECTION 2: Any provisions or portion of the original zoning plan and zoning map adopted in 1965 and as amended thereafter, to the extent they are in conflict with the provisions contained in the attachment hereto shall be and hereby are amended or repealed, as the case may be.

SECTION 3: In light of the need to revise the City of Ozark zoning plan and maps, and due to substantial changes in the City of Ozark, it is necessary for the preservation of public health, safety, and welfare, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage.

PASSED AND APPROVED THIS 5th DAY OF November, 2001.


MAYOR, Todd Timmerman

ATTESTED:


CITY CLERK, Carol Sneath

JPV:var
ozark.ord45

Replaced
By
2004-6

CITY OF OZARK
ZONING ORDINANCE

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ARTICLE II
ADMINISTRATION

Section 1

The administration of these regulations and the voice behind such determination shall be the Ozark Planning and Zoning Commission., herein referred to as the Commission.

As set by ordinance, the Commission shall meet as prescribed to determine qualified applications which have met parameters set forth within this ordinance.

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ARTICLE I
CITATION, PURPOSE, AND NATURE

Section A
CITATION

This ordinance, in pursuance of the authority granted by the General Assembly of the State of Arkansas in Act 186 of the 1957 Acts of Arkansas, shall be known as the Zoning Ordinance.

Section B
PURPOSE

The Zoning Regulations set forth herein are enacted for the purpose of promoting the health, safety, order, prosperity, and general welfare of the citizens of the City of Ozark now and in the future. The Zoning Regulations shall provide for efficiency and economy in the process of development for the appropriate and best use of land, for the use and occupancy of buildings, and for healthful and convenient distribution of population.

Section C
NATURE

Except as otherwise noted hereinafter, no land shall be used and no building, structure, or improvement shall be made, constructed, moved, altered, enlarged, or rebuilt which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the requirements established in the district in which such land, building, structure, or improvement is located, and in accordance with the provisions of the articles contained herein relating to any or all districts.

ARTICLE III
DEFINITIONS

ARTICLE IV
ZONING DISTRICTS, PERMITTED USES AND PROVISIONS

Section A
ZONING DISTRICTS

- R1 Residential District
- R2 Multi-family Residential District
- R3 Extensive Family Unit District
- R4 Mobile Home District
- C1 Central Business District
- C2 General Commercial District
- I1 Industrial District

Section B
PROVISIONS AND PERMITTED USES OF DISTRICTS

1. R1 - Residential District

The principal use of land shall be for detached, single family dwellings and such recreational, religious, and educational facilities which would require the basic elements of a balanced and attractive neighborhood area.

Permitted Uses:

- a. residential, single family dwelling
- b. public or private schools, parks, and churches
- c. municipal recreational uses
- d. accessory or incidental structures to residential use
- e. home occupations, as permitted herein

Provisions of R1:

- a. pre-existing lots 6500 sq. ft.
- b. minimum lot area: 7000 sq. ft. for new subdivision lots
- c. minimum lot width: 75 ft. at the building line
- d. maximum height: 3 stories or 36 ft., whichever is highest
- e. front yard: 25 ft setback
- f. side yard: 7.5 ft. setback
- side yard with street: 15 ft.
- g. rear yard: 15 ft.
- h. off-street parking: two parking space per residence
- i. places of public assembly:
yard: 25 ft from all property lines

2. R2 - Multi-family Residential District

The principal use of land shall be for detached, single family dwellings, dwellings or detached dwellings for up to a four family occupancy, and such recreational, religious, or educational facilities which would require the basic elements of a balanced and attractive neighborhood. This district is designed primarily for the use of duplex, tri-plex, and four-plex style structures.

Permitted Uses:

- a. up to four family dwellings, detached or consolidated
- b. all permitted R1 uses except home occupations, which are prohibited

Provisions of R2:

- a. minimum lot area: 8000 sq.ft. for the initial unit, and 1500 sq.ft. per each additional unit
- b. minimum lot width: 75 ft.
- c. front yard: 25 ft.
- d. side yard: 7.5 ft.
- side yard with street: 15 ft.
- e. rear yard: 15 ft.
- f. off-street parking: two per family unit
- g. place of public assembly:
 - yard: 25 ft. from all property lines
 - off-street parking: one spot per 5 persons accompanied

3. R3 - Extensive Multi-Family Residential District

The principal use of land shall be for large, consolidated or detached, residential structures with over four family dwellings. This district shall be designed to accommodate structures such as retirement centers and apartment complexes or any such structure which will be used for the occupancy of more than four family units.

Permitted Uses:

- a. residential dwellings with over four family units, consolidated or detached
- b. retirement centers
- c. nursing homes
- d. housing projects
- e. apartment complexes

Provisions of R3:

- | | |
|-----------------------|--|
| a. minimum lot area: | 12000 sq. ft. per first four family units and
1500 sq. ft. per each additional family unit
or accessory building |
| b. minimum lot width: | 125 ft at front yard line |
| c. maximum height: | 3 stories or 36 ft. whichever is highest |
| d. front yard: | 30 ft. |
| e. side yard: | 15 ft with or without street |
| f. rear yard: | 15 ft. |

* the building shall not cover over 60 percent of the lot area

* two parking spaces per family unit or occupied building

5. C1 - Central Business District

The Central Business District is a permanent site within the city of Ozark which represents the core section of downtown, beginning at South First Street and River Street, West to South Fourth Street, then North to Market, then east to North First Street, then south to River Street. This area constitutes the "square" area and surrounding structures.

Permitted Uses:

- a. Retail establishments selling mainly goods described as grocery, pharmaceutical, hardware, variety, dry goods, automotive parts, carpentry, and like establishments.
- b. Eating establishments such as cafes and restaurants
- c. Professional offices for banking, law firms, accountants, title companies, utilities, etc.
- d. Service outlets such barber shops, beauty salons, etc.
- e. Government offices
- f. Places of public assembly

Provisions of C1:

- a. Front and Side Yards: no specific distance required
- b. Rear Yard: no requirements except on lot abutting residential lot, then setback shall be 25 feet
- c. Parking: Commercial - Two spaces per office
Places of Assembly - One space per 10 persons

* all new structures shall meet the specifications of C2 classification

** all commercial activities now in place shall be held to be in compliance, however, any new operation shall meet these codes

***no business may block any public right of way or alley for the purpose of unload or load, however, business may use right of way or alley to load and unload if such activity is done in a timely manner, not to exceed one hour

6. General Business District - C2

This district is designed for the general operation of business. Such business will cater to typical traffic flow of patrons and vendors. The idea is for such business to handle the needs of the public without creating hazard or impede to the public

- a. All retail establishments
- b. All service establishments including motels, hotels, offices, restaurants, service stations, laundry, etc.
- c. Government offices and facilities,
- d. Place of public assembly,
- e. Medical facilities and clinics.

Provisions of C2:

- 1. Front Yard: minimum of 30 feet
- 2. Side Yard: minimum of 15 feet on property abutting a residential use zone or 5 feet on property abutting a commercial use zone.
- 3. Rear Yard: minimum of 10 feet from rear lot line or center of alley if exists.
- 4. Lot Coverage: no structure shall cover more than one-half (1/2) the the lot area.
- 5. Load and Unload: in no way shall any public right of way or alley be blocked or traffic impeded for the purpose of load or unload; designated area shall be provided on the lot for such purpose
- 6. Parking: Commercial - one space per employee with additional one per 200 square feet
Places of Assembly - one space per 10 people

7. Industrial District - I1

This zone is reserved for industry capable of processing in manufacturing and agriculture. These activities may involve the storing of bulk materials and the use of such materials in processing.

Permitted Uses:

- a. The manufacturing, compounding, processing, packaging, assembling of products in large quantities and accessory mechanics of such activity
- b. Storage of materials in bulk or dry storage
- c. Use of facilities designed to load or unload to barge, airline, train, or truck for the transport and delivery of such product

Provisions of I1:

- a. All uses of this zone shall be approved by the Building Inspector prior to such activity, to determine the safety and soundness of the activity in relation to the health, safety, and welfare of the people.
- b. No residential use allowed
- c. All setbacks must be at least 25 feet from property lines. More if necessary because of safety concerns.
- d. Maximum height to be determined in consideration of other uses of the surrounding area including airports, highways, and other structures.
- e. No loading or unloading may be on or within public right of way
- f. One parking spot per 3 employees

ARTICLE V
SPECIAL PROVISIONS

Section A
Annexed Areas

1. Territory annexed into the City of Ozark after adoption of these regulations shall be given use designation within 90 days after the effective date of annexation by the Planning and Zoning Commission.
2. Before official use designation is made after annexation, all requests for permits on the annexed property shall be referred to the Commission or its designee for recommendation on the permit.

Section B
Existing Uses and Buildings

1. Nothing contained herein shall require any change in construction or designated use of a building actually under construction at the time of the adoption of these regulations. However, any existing commercial or subdivision construction within the annexed area not previously reviewed by the Commission must comply with the regulations of the City of Ozark.
2. On any lot in a residential use district which is on a plat of record at the time of passage of these regulations, a one-family structure may be erected even though the lot be of less area or width than required by the regulations of the residential use district in which the lot is located, provided all other requirements are met. All multi-family uses, as provided in R-2 and R-3, unless already under construction, must conform to these regulations in their entirety.
3. The lawful use of a building or premises at the time of adoption or amendment of these regulations may be continued although such use does not conform with the provisions of these regulations. If the non-conforming use is discontinued for a period of time exceeding 30 days, all future use of the building and premises must comply with these regulations. Any question as to the use or time is a decision placed by the Board of Zoning Adjustment.

Section C
Home Occupations

1. An occupation may be carried on in a residential structure in a residential district only if the following are complied with:

Section D
Sexually Oriented Business

1. The purpose of this section is to regulate sexually oriented business to promote the health, safety, and general welfare of the citizens of the the City of Ozark and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction upon the content of any communicative materials and similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
2. Sexually Oriented Business - Classified:
 - a. Adult arcade
 - b. Adult bookstores and video stores
 - c. Adult cabarets
 - d. Adult motion picture theatres
 - e. Adult theatres
3. Conditional Use:

All sexually oriented businesses must be within the C-2 district only. The following conditions must be met:

- a. No sexually oriented business may be operated within 1000 feet of:
 - (i) a church;
 - (ii) any type or facility used in or in conjunction with education, be it a public or private facility
 - (iii) any type or facility used in or in conjunction with child care, be it a public or private facility
 - (iv) any pulic park or place of public assembly
 - b. No sexually oriented business may be operated:
 - (i) within 500 feet of a boundary of a residential zone or any residential use
 - (ii) within 500 feet of a residential zone or any residential use as measured by automobile travel distance from the exit of sexually oriented business property to the property line of the residential zone.
 - (iii) within 1000 feet of another sexually oriented business or within 200 feet of any room, building, premises, place or establishment that sells or dispenses alcohol.
4. A lawfully operating sexually oriented business shall not be rendered illegal by the subsequent location of any condition above.

ARTICLE VI
BOARD OF ZONING ADJUSTMENT

Section 1
Organization

A Board of Zoning Adjustment (Board) is created which shall consist of the Commission as a whole and the Chairman of the Commission shall likewise be the Chairman of the Board.

Section 2
Meetings

The Board shall establish regular meeting dates, adopt rules for the conduct of business, establish a quorum and procedure, and keep public record of all findings and decisions. Any meeting of the Board must be published in a newspaper of general circulation in the city, at least one time seven days prior to the meeting date.

Section 3
Appeals to Board

An appeal may be taken to the Board by any person, group, or organization of a decision made by the Building Inspector. Such appeal shall be taken within a sixty (60) day period from the date of the decision by filing with the Building Inspector and the Board a notice of appeal, specifying the grounds thereof. A fee of \$ 25.00 shall accompany all notices of appeals. All fees shall be refunded upon the decision being reversed, otherwise there shall be no refund.

Section 4
Powers of Board

The Board shall be granted the following powers:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Inspector in the enforcement of these regulations and may affirm or reverse, in whole or part, said decision of the Building Inspector.
- B. To hear requests for variances from the literal provisions of the zoning regulations in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance. The Board shall not permit, as a variance, any use in a zone that is not permitted under the regulations. The Board may impose conditions in granting of a variance to insure compliance and to protect adjacent property.

with contagious diseases, provided that less than 40 percent of the total land area is occupied by buildings and that all the required yards are increased by one foot for each foot of building height in excess of height limits specified in these regulations.

5. Nursing Homes
 6. Radio tower or broadcasting tower, per regulations herein.
 7. Public utility structure
- D. The Board may hear applications and take action as permitted on matters specifically referred to it under these regulations

Section 5 Appeal of Board Decision

Any appeal of a decision handed down by the Board shall be to a court of record, such as the Circuit Court of Franklin County, within 30 days of said decision.

Section 6 Notice of Public Hearing

Whenever an appeal or application for a variance or special use permit is made to the Board, the Board shall cause to have published at the expense of the appellant or applicant a notice of the time and place of the public hearing upon such appeal or application, which notice shall be published at least once not less than 7 days preceding the date of the such hearing. The shall also give reasonable notice to any person or organization which the Board deems feasible and practicable.

ARTICLE VII

Signs

The City of Ozark deems it necessary for the public health, safety, and welfare to institute a process by which signs are erected within the City. This article addresses the architectural mode of signs along with the safety issues concerning signs. This article also illustrates the process by which signs are to be permitted in the City.

Section 1

Application

All free standing signs, and signs having an electrical connection, of any type, to be erected, altered, or located within the City shall follow the regulations set forth in this article. Any person, group, or organization desiring to make application shall request from the Building Inspector an application for a permit for the literal application of the sign. The Building Inspector shall give the applicant a written reply within 3 business days. Any permit issued shall not have a fee. Any lighted sign requiring wiring and electric input shall be charged an inspection fee of \$15.00. Any variance requested from these regulations must be presented to the Board of Zoning Adjustment in the manner set forth in these regulations. Any decision of the Building Inspector may be appealed to the Board in the manner set forth in these regulations.

Section 2

Guidelines

- A. No sign or poster shall be posted or fixed in any manner that contains any portion to be obscene or immoral that can be seen from the street, public ground, or public way.
- B. No person, business, group, or organization shall loosely scatter, distribute, or throw any bill, poster, or matter on the surface of any public streets or ways or in any public ground.
- C. Signs shall be designed to conform to or blend in with the decor and architecture of the principal building or the property in C-1 district.
- D. All signs shall be neat and cleanly lettered, and shall not be distracting.
- E. No sign erected in the city shall exceed 160 square feet except at the discretion of the Commission. Excluding the signs viewable from I-40 that are regulated by the State.
- F. No sign shall be placed on a tree or utility pole.

- J. All holiday decorations shall be excluded from this ordinance, unless they are considered to create a hazard.

Section 3 Types of Signs

- A. Commercial Signs: Signs of a commercial nature must be placed in a position or location that does not obstruct vision at intersections, or create any type of hazard.
- B. Abandoned Signs: An abandoned sign is for a non-existing business. All such signs shall be removed by the owner or by the City at the owner's expense, unless such sign is involved in litigation, no structure supporting such sign shall be removed, unless a hazard exists.
- C. Banner Sign: This section applies only to those banner signs placed over streets or highways. A sign made of fabric or any non-rigid material which may move or be windblown to create attention. Any such banner must be approved by the Building Inspector, and for no more than thirty days.
- D. Portable Signs Prohibited: Any sign that is capable of being moved easily on wheels or a chassis is prohibited.
- E. Wall Sign: Outdoor advertising displays may be attached to exterior walls of businesses.
- F. Snipe Sign: Any sign or poster affixed to a tree, fence, utility pole, or placed in a public right-of-way is prohibited.
- G. Free Standing Sign: Any sign supported by poles or braces and not attached to a building is allowed.
- H. Marquee Signs: A projecting sign attached to or hung from a marquee is allowed, however, it must be at least 7 feet 4 inches above the sidewalk.
- I. Lighted Signs: No revolving or rotating beam of light that simulates any emergency light or design shall be permitted as part of any outdoor advertising sign. External lighting such as floodlights, thin-line and gooseneck reflectors are permitted. All lights shall be directed as not to distract any person or any part of the right-of-way. Flashing lights with intermittent or sequential source prohibited. All such lights require inspection.
- J. Temporary Signs: Political, community, civic, and fraternal organizations may place signs temporary on private property for a reasonable amount of time to inform the public. All such signs may only be displayed for a period of no more than 60 days

Section 4 Non-conforming Signs

ARTICLE VIII
Amendments to Zoning Regulations

Section 1
Amendments by the Council

- A. The City Council may direct the Commission to amend the text of these regulations or the Commission may initiate an amendment.
- B. Amendments to the text proposed by the Commission shall be advertised in a paper of general circulation at least 15 days prior to the meeting and public hearing on the proposal. After such hearing, the Commission shall make a report and recommendation to the City Council pertaining to the proposed amendments. The City Council action on the report shall be final.

Section 2
Amendments by Individual Property Owners

- A. A petition, a form referred to as the City of Ozark Rezoning Community Liason form, and \$ 100.00 shall be presented to the Ozark City Clerk by the property owner or his legally designated representative.
 - (i) A petition shall contain the following information:
 - a. The name of the owner of the property to be rezoned
 - b. The legal description of the property
 - c. The street address of the property
 - d. The present zoning classification
 - e. The basic reasons for such action
 - f. The proposed action
 - g. A statement as to the proposed use
 - h. A statement to show a sign has been posted on the property
 - (ii) The completed form shall contain the following information and will be available at City Hall.
 - a. The recommendation of the following persons:
 - 1. Mayor
 - 2. Building Inspector
 - 3. Water Manager
 - 4. Street Manager

chairman of the Commission who shall then cause notice to be given to public of the pending hearing. Notice shall be provided in a paper of general circulation no less than 15 days prior to date of hearing

- D. The Commission shall:
- (i) hold a public hearing on the matter
 - (ii) approve or disapprove the matter and submit recommendation to the City Council
 - (iii) give any reasons for a disapproval in writing to the petitioner within 15 days of said action
 - (iv) give City Council the matter to adopt by ordinance or return to Commission for further study
- E. Any disapproval by the Commission may be appealed to the City Council; such appeal must be given in writing to the City Clerk within 15 days of the action.
- F. No application for a change in zoning reclassification shall be reconsidered by the Commission for a period of 12 months from the date of final action on the original request.

ARTICLE IX ENFORCEMENT AND PENALTY

Section 1 Responsibility

The Building Inspector shall be responsible for the administration and enforcement of these regulations.

Section 2 Permits

No structure shall be erected, moved, added to, or externally altered without a building permit. No permit shall be issued except in conformity with the provisions of these regulations.

Section 3 Violations

If the Building Inspector shall find that the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. Failure to correct any violation or for any violation of these regulations, information shall be given to the City Attorney for prosecution based on the regulations herein.

Section 4 Penalties

Violations of any provision of the zoning ordinance shall be considered a misdemeanor. Each day's violation shall be considered a separate offense.

ARTICLE X
Severability

The provisions of this ordinance are hereby declared to be severable. If any section, paragraph, sentence, or clause shall be held to be invalid, the invalidity of said section, paragraph, sentence, or clause shall not affect the validity of the rest of the said ordinance.

These regulations shall take effect and be in force immediately from and after the date of their adoption; the public health, safety, and welfare so demanding.