

TITLE 1

GENERAL PROVISIONS

Chapters:

- 1.04 Code Designated and Cited
- 1.08 Rules of Construction
- 1.12 Subheadings of Sections
- 1.16 Effect of Repeal of Ordinances
- 1.20 Severability of Parts of Code
- 1.24 Amendments to Code
- 1.28 Altering Code
- 1.32 General Penalty
- 1.36 Referendum Petitions

CHAPTER 1.04

CODE DESIGNATED AND CITED

Sections:

- 1.04.01 Code designated and cited

1.04.01 Code designated and cited The ordinances embraced in the following chapters and sections shall constitute and be designated "Ozark Municipal Code" and may be so cited.

STATE LAW REFERENCE-See A.C.A. 14-55-701, *et seq.*

CHAPTER 1.08

RULES OF CONSTRUCTION

Sections:

- 1.08.01 Rules of construction

1

TENSE. Words used in the past or present tense include the future as well as the past or present tense.

2

1.08.01 Rules of construction In the construction of this code and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council.

STATE LAW REFERENCE: A.C.A. refers to the official Arkansas Code Annotated which set forth the laws passed by the General Assembly of the state of Arkansas.

CITY. The words "**the city**" or "**this city**" shall mean the city of Ozark, Arkansas.

CITY COUNCIL. Whenever the words "**City Council**" or "**Council**" are used they shall be construed to mean the City Council of the city of Ozark, Arkansas.

COUNTY. The words "**the county**" or "**this county**" shall mean the county of Franklin, Arkansas.

GENDER. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

MUNICIPALITY. The words "**the municipality**" or "**this municipality**" shall mean the city of Ozark, Arkansas.

NUMBER. Words used in the singular include the plural, and the plural includes the singular number.

OATH. The word "**oath**" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "**swear**" and "**sworn**" shall be equivalent to the words "**affirm**" and "**affirmed**".

OTHER CITY OFFICIALS OR OFFICERS. References made to officials, boards, commissions, departments, etc., by title only shall be deemed to refer to the officials, boards, commissions and departments of the city of Ozark, Arkansas.

PERSON. The word "**person**" shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.

STATE. The words "**the state**" or "**this state**" shall be construed to mean the state of Arkansas.

STREET. The word "**street**" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city of Ozark, Arkansas.

TENSE. Words used in the past or present tense include the future as well as the past or present tense.

CHAPTER 1.12

SUBHEADINGS OF SECTIONS

Sections:

1.12.01 Subheadings of sections

1.12.01 Subheadings of sections The subheadings of sections of this code, which are underlined, are intended merely to indicate the contents of the section and shall not be deemed, or taken to be titles of, such sections, nor as any part of the section.

CHAPTER 1.16

EFFECT OF REPEAL OF ORDINANCES

Sections:

1.16.01 Effect of repeal of ordinances

1.16.01 Effect of repeal of ordinances The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

CHAPTER 1.20

SEVERABILITY OF PARTS OF CODE

Sections:

1.20.01 Severability of parts of code

1.20.01 Severability of parts of code It is hereby declared to be the intention of the City Council of the city of Ozark, Arkansas, that the titles, chapters, sections, paragraphs, sentences,

clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, chapter, title or section of this code shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, chapters, titles and sections of this code.

CHAPTER 1.24

AMENDMENTS TO CODE

Sections:

1.24.02 Amendments to code

1.24.01 Amendments to code All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby.

Amendment to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in the following manner, if substantially similar language is used: "That section _____ of the Ozark Municipal Code is hereby amended to read as follows: . . ." The new provisions may then be set out in full.

In the event a new section not heretofore existing in the code is to be added, the following or substantially similar language may be used: "That the Ozark Municipal Code is hereby amended by adding a section (or title or chapter) to be numbered _____, which said section (or title or chapter) reads as follows: . . ." The new provisions may then be set out in full.

All sections, titles, chapters or provisions desired to be repealed must be specifically repealed by section, title or chapter number, as the case may be. In the alternative, if an ordinance is repealed by reference to its ordinance number, then the code section, title, chapter or provision setting forth the words of the repealed ordinance shall be deemed to have been repealed and shall be omitted from this code.

CHAPTER 1.28

ALTERING CODE

Sections:

1.28.01 Altering code

1.28.01 Altering code Any ordinance and any portion of this code shall be repealed or amended only by an ordinance duly passed by the governing body of the city of Ozark, or by a vote of the qualified electors as provided in the Constitution or the laws of the state of Arkansas. It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which shall cause the law of the city of Ozark, Arkansas to be misrepresented thereby. Any person violating this section shall be punished as provided by Section 1.32.01 hereof.

CHAPTER 1.32

GENERAL PENALTY

Sections:

1.32.01 General Penalty

1.32.01 General penalty Whenever in this Municipal Code the doing of any act or the omission to do any act or duty is declared unlawful, and further, whenever the amount of the fine shall not be fixed and no penalty declared, any person convicted for a violation of such provision of this code shall be adjudged to pay a fine of not more than Five Hundred Dollars (\$500.00) or double that sum for each repetition of such offense or violation and if the act is continuous, not more than Two Hundred and Fifty Dollars (\$250.00) for each day of continuance. Provided, for any offense committed against the code for which there is set forth by state law a similar offense the penalty therefore shall be no less nor greater than that set forth by state law.

STATE LAW REFERENCE-See A.C.A. 14-55-502.

CHAPTER 1.36

REFERENDUM PETITIONS

Sections:

1.36.01	Filing date
1.36.02	Notice
1.36.03	Voting
1.36.04	Upon defeat of ordinance

1.36.01 Filing date All referendum petitions under Amendment No. 7 to the Constitution of the state of Arkansas must be filed with the City/Treasurer within thirty (30) days after passage of any such ordinance or resolution. (Ord. No. 148, Sec. 1.)

1.36.02 Notice Whenever any referendum petition is filed, the Mayor, acting on behalf of the City Council, shall give notice by publication for one insertion in a newspaper published and having a general circulation in the city of Ozark of a time not less than five (5) days after the publication of such notice at which the City Council will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners. At the time named, the City Council shall meet, at its regular place of meeting, and hear all who wish to be heard on the question, and its decision shall be final, unless suit is brought in the Chancery Court of Franklin County, Arkansas, within thirty (30) days to review its action. (Ord. No. 148, Sec. 2.)

1.36.03 Voting If the City Council finds that such petition is signed by the requisite number of qualified petitioners, it shall order a special election to determine by a vote of the qualified electors whether the ordinance or resolution shall stand or be revoked, and fix a date which shall be not less than ten (10) days after the date of the action of the Council calling the election. The Mayor shall publish a notice of the call of such election in not less than one issue of a newspaper published and having a general circulation in the city of Ozark not less than five (5) days prior to the date of the election. Such notice shall designate by its number, caption, and date of passage, the ordinance or resolution which has been referred to the people for approval or rejection by their vote at such election. Otherwise, subject to the provisions of Amendment No. 7 to the Constitution of Arkansas, and other applicable laws, such election shall be conducted in the manner provided by law for the conduct of a regular municipal election. (Ord. No. 148, Sec. 3.)

1.36.04 Upon defeat of ordinance If any ordinance or resolution referred to the people is defeated at the polls, the City Council shall make a note of such fact and shall expunge such ordinance from its files by erasing the same with red ink. (Ord. No. 148, Sec. 4.)

STATE LAW REFERENCE - See Const., Amend. No. 7 and A.C.A. 7-9-103 through 7-9-120 and 14-55-203.

SUPPLEMENT NO. 1
CODE OF ORDINANCES
CITY OF
OZARK, ARKANSAS

Remove Old Page

7
13
26
Title 3
72
73
131
216
Index – 2 pages

Insert New Page

7
11.1
13
26
27.1
Title 3
72
73
131
216
Index – 2 pages

March 2011

TITLE 2

CLASSIFICATION, ADMINISTRATION

AND PERSONNEL

Chapters:

- 2.04 City Classification
- 2.08 City Council
- 2.12 Clerk/Treasurer
- 2.16 Police Department
- 2.18 Fire Department
- 2.20 District Court
- 2.24 Port Authority
- 2.28 Advertising and Tourist Promotion Commission
- 2.32 Ozark Tourist Facilities Board
- 2.36 Code of Ethics
- 2.40 Personnel Policies

CHAPTER 2.04

CITY CLASSIFICATION

Sections:

- 2.04.01 Operation as first class city

2.04.01 Operation as first class city The city of Ozark, Arkansas, shall operate as a city of the first class under the laws of the state of Arkansas. STATE LAW REFERENCE - See A.C.A. 14-37-105

CHAPTER 2.08

CITY COUNCIL

Sections:

- 2.08.01 Special meetings
- 2.08.02 Compensation of Aldermen

2.08.01 Special meetings

- A. A.C.A. 14-43-502 provides that cities may call special meetings of the City Council in such manner as may be provided by ordinance.
- B. A special meeting of the City Council at times other than the regularly scheduled meetings may be called by either the Mayor or any three Aldermen. In the event, three or more Aldermen desire to call a special meeting, such request shall be delivered to the Mayor in the form of an oral request at which time the Mayor shall call the meeting at the time requested in accordance with law. (Ord. No. 2001-1, Sec. 1-2.)

2.08.02 Compensation of Aldermen The salary of each Alderman of the city of Ozark, Arkansas, shall be Three Hundred Dollars (\$300.00) per month which shall constitute the total compensation for the office of Alderman of the city of Ozark.

CHAPTER 2.12

CLERK/TREASURER

Sections:

- 2.12.01 Offices combined
- 2.12.02 Records
- 2.12.03 Monthly bills
- 2.12.04 Posting
- 2.12.05 Budget
- 2.12.06 Bids
- 2.12.07 Ordinances
- 2.12.08 Cemetery record
- 2.12.09 Personnel manual

2.12.01 Offices combined The offices of City Clerk and City Treasurer as now constituted, be and the same is hereby ordained, that the two offices be combined into the office of City Clerk, effective January 1, 1969, and that the office of City Clerk shall be filled by appointment or election in accordance with the statutes from this date forward. (Ord. No. 174, Sec. 1.)

2.12.02 Records It is the policy of the city of Ozark to maintain all original documents and records at the City Hall offices and no original city documents or records are to be taken from the City Hall offices without a legal subpoena or court order. Copies of said documents may be made and taken from the City Hall offices. (Ord. No. 1987-4, Sec. 1.)

2.12.03 Monthly bills All monthly bills generated by the city of Ozark are to be given to the Mayor as part of his record keeping prior to approval of said bills. (Ord. No. 1987-4, Sec. 2.)

2.12.04 Posting The City Clerk or her designated representative shall receipt and post in the journal an expenditure entries to be balanced within three (3) days before each regular City Council meeting and to be balanced prior to any special City Council meeting and said journal entries shall be kept year to date in the journals and balanced. (Ord. No. 1987-4, Sec. 3.)

2.12.05 Budget All budget matters shall be set up identical to all journal entries and shall include categories month to date and year to date. (Ord. No. 1987-4, Sec. 4.)

2.12.06 Bids A record of all bids and bid openings shall be kept and maintained by the city and recorded in the minute book of the City Council of the city of Ozark. (Ord. No. 1987-4, Sec. 5.)

2.12.07 Ordinances All ordinances of a permanent nature shall be published in a paper of general circulation of the city of Ozark. (Ord. No. 1987-4, Sec. 6.)

2.12.08 Cemetery records The City Clerk shall be responsible for maintaining correct, accurate cemetery records. (Ord. No. 1987-4, Sec. 7.)

2.12.09 Personnel manual A personnel policy and procedure manual shall be maintained and kept updated at City Hall on all personnel matters. Personnel files shall be maintained on all employees. All comp time, pay rates, vacation times accrued, and sick days accrued be delineated in the personnel policy and procedure manual and kept for each individual employee in their personnel file. (Ord. No. 1987-4, Sec. 8.)

CHAPTER 2.16

POLICE DEPARTMENT

Sections:

- 2.16.01 Police Department manual
- 2.16.02 Reserve Unit
- 2.16.03 Education Fund

2.16.01 Police Department manual

- A. The City Police Department Policy Manual as adopted July 24, 1999, shall be and hereby is amended. Such amendment shall be in the manner and as specifically set forth in the amended provisions and paragraphs attached hereto.

- B. Any provisions or portions of the original Policy Manual adopted July 24, 1999, to the extent they are in conflict with the provisions contained in the attachment hereto shall be and hereby are repealed.
- C. Any new sections or provisions which were not previously addressed in the original policy manual and which new provisions are contained in the attachment hereto shall be and hereby are adopted. (Ord. No. 1999-27, Secs. 1-3.)

2.16.01 Reserve Unit The Ozark Police Reserve Program shall be and hereby is adopted by the City Council of the city of Ozark. The policies and procedures set forth in the Police Reserve Manual attached hereto as Exhibit "A" shall be and hereby are adopted by reference. The provisions contained in said manual are incorporated herein.

- A. The Reserve Unit is formed to provide active membership for those people within the community who wish to become better acquainted with police work in general, who wish to serve the community, and for those who may be considering a career in law enforcement. As such the Unit will be formulated along the same or similar guidelines upon which the Police Department is organized. The members of this Unit will be required to meet some of the basic criteria which certified police officers are required to meet. Only those individuals who are willing to adhere to the rules of conduct which govern police officers in general will be accepted to the reserve program.
- B. Potential members must meet the following criteria in order to be considered for acceptance:
 - 1. Each member must be a least twenty-one (21) years old.
 - 2. Potential members must not have been convicted of any felony offenses, must not have a history of convictions or traffic related offenses and/or misdemeanors and be in good standing within the community.
 - 3. Members must be in good physical condition and the weight of each member should be in proportion to his or her height.
 - 4. Each member must be willing to undergo a basic background investigation by the Police Department.
- C. In order to be accepted as a member of the Reserve Unit, the individual must be willing to complete a certified reserve school and have a physical and psychological exam done at their expense. Acceptance to the reserve program will be determined by the Chief of Police.

- D. All Reserve Unit individuals who are selected to be on the reserve program with the Ozark Police Department, during such time until they go to the schooling, will not be allowed to carry any manner of firearm, striking device, or any other weapon capable of causing physical injury to another while performing duty as a reserve member, nor will they have any authority, express or implied. Each person must complete and pass the reserve schooling. If not, they will automatically be removed from the Reserve Unit. After completion of the Reserve Part-Time II class, they may be certified and authorized to carry a handgun.
- E. Upon completing schooling and being certified as a reserve officer, they will be required to work on a shift as deemed by the Chief of Police and also help in special events going on within the city, such as: football games, parades, extra patrol night, and road blocks, all as directed by the Chief of Police.
- F. Each member will be required to sign a prepared waiver which will release the Police Department and the city from any liability for any injuries, harm or damages of whatsoever nature and arising out of any claim, complaint or cause of action of any type whatsoever. In the event of bodily harm, all responsibility for any legal, medical or hospital expenses will be the responsibility of the individual.
- G. No reserve officer will equip his privately owned vehicle with police emergency equipment such as blue light, siren, etc.
- H. No member will perform any duties or have any authority in any police capacity when not working at the same time as and in conjunction with a full time certified officer. Outside of the conditions of working a schedule when he/she is to be working with another certified officer, the member must remember that he/she is only a private citizen, not a representative of this department and thus has no independent or continuing authority as a police officer.
- I. Each reserve officer will be issued a copy of the rules and regulations which govern the Police Department. The members of the Reserve Unit will be expected to adhere to those rules which apply to them. Many of the rules within the Police Department handbook will not apply to reserve officers. During the course of the formation of the reserve, any member who has a question pertaining to the rules and regulations should address those questions to the Chief of Police. (Ord. No. 1999-3, Sec. 1-2.)

2.16.03 Education Fund The city of Ozark Ord. No. 1994-33 sets forth and establishes the budget for the year 1995. The said ordinance shall be and hereby is amended to reflect a transfer of \$1,000.00 for the Police Expense Fund to the Police Drug Education Fund. Such funds will be used by the Ozark Police Department as an aid to enforcement of and education of controlled substance laws. (Ord. No. 1995-11, Sec. 1.)

CHAPTER 2.18

FIRE DEPARTMENT

Sections:

2.18.01 Fire Chief

2.18.01 Fire Chief

- A. The position of Fire Department Administrator is abolished and the duties of said position will be performed by the new Fire Chief as of May 1, 2009. That all persons formerly acting under the supervision of the Fire Department Administrator shall henceforth be under the direction of the Fire Chief as of May 1, 2009.
- B. Kevin Eveld is hereby appointed Fire Chief of the city of Ozark as of May 1, 2009, and his salary is hereby established at \$30,000.00. (Ord. No. 2009-13, Secs. 1-2.)

CHAPTER 2.20

DISTRICT COURT

Sections:

2.20.01	Established
2.20.02	District Judge
2.20.03	Salary
2.20.04	Court and jail costs

2.20.01 Established Under the provisions of Act 60 of the General Assembly of 1927 and Acts amendatory thereto, there is hereby created a District Court in the Ozark District of Franklin County, at Ozark, Arkansas, to be styled "The District Court of Ozark, Arkansas," which Court shall be conducted in all respects in compliance with said Act, the amendments thereto and all other applicable laws of the state of Arkansas. (Ord. No. 248, Sec. 1.)

2.20.02 District Judge

- A. The City Council of the city of Ozark shall appoint by resolution, which shall be passed viva voce, with a majority of the Council concurring, a qualified person to fill the vacancy in the office of District Judge created by this ordinance. The Judge so appointed shall serve until his successor is elected, in the next biennial general election held in even numbered years, and qualified as such and who shall serve for this term two (2) years. Subsequent terms shall be for four (4) years. Subsequent vacancies, which occur in the office of District Judge shall be filled as now provided by law.
- B. Every four (4) years at the biennial General Election held in even numbered years, there shall be elected a District Judge whose term of office shall be four (4) years, and until his successor is elected and qualified as such. The applicable provisions of Act 1 of the General Assembly of 1975 and the Acts amendatory thereto shall be followed in qualifying for and conducting said election for District Judge. (Ord. No. 248, Sec. 4-5.)

2.20.03 Salary The salary of the District Judge shall be \$941.66 per month. The modification of District Judge salary shall not be effective until August 1, 1997. (Ord. No. 97-6, Sec. 1.)

2.20.04 Court and jail costs

- A. The city of Ozark shall levy and collect expenses as authorized by A.C.A. 12-41-505 for carrying a person convicted of a criminal offense or a misdemeanor to jail and also for his or her support from the day of his or her initial incarceration for the whole time he or she remains incarcerated. (Ord. No. 2007-23, Sec. 1.)

- B. The city of Ozark shall levy and collect a Ten Dollar (\$10.00) jail fee as authorized by A.C.A. 16-17-129 for all convictions, and/or pleas of guilty or nolo contendere, bond forfeitures, on all misdemeanors, violations or other offenses under state law and violations of local ordinance committed within the city limits. (Ord. No. 2009-18, Sec. 1.)
- C. Moving traffic violation:
1. In addition to any fines provided by law, there shall be assessed and collected a penalty of Three Dollars (\$3.00) for each conviction of a moving traffic violation, where the conviction arises out of the operation of a motor vehicle in violation of municipal ordinances or the laws of this state, and in addition to any fines provided by law, there shall be assessed and collection a penalty of Three Dollars (\$3.00) for each conviction for the violation of a criminal law of this state to fund the Police Retirement System as provided by the Arkansas Local Police and Fire Retirement System.
 2. For the purposes of this ordinance, the term "conviction" shall include forfeiture of bond, conviction by trail, any guilty plea, or plea of non-contest. Any bond posted pursuant to a charge or citation for violation of any law or ordinance specified in this section shall include the Three Dollars (\$3.00) additional penalty provided herein.
 3. The provisions of this ordinance shall apply to all fines assessed by the city of Ozark pursuant to the jurisdiction of the District Court of Franklin County, Arkansas, Ozark District.
 4. All penalties collected under the provisions of this sub-chapter shall be deemed to be collected for payments to fund the employer's share of retirement costs for certified police personnel, covered under the Arkansas Local Police and Fire Retirement System.
 5. All penalties collected under the provisions of this sub-chapter shall be remitted, by the collecting officials, to the City Clerk for deposit into the Local Police and Fire Retirement System Subsidy Account on or before the 5th day of the month following the month of collection thereof.
 6. Failure to collect and remit such funds as provided herein, will be punishable as provided by the laws of the state of Arkansas. (Ord. No. 91-8, Secs. 1-6.)
- D. The City Council of the city of Ozark, Arkansas, hereby levy a Three Dollar (\$3.00) additional court cost upon each plea of guilty, nolo contendere, bond

forfeiture, or determination of guilty for misdemeanor or traffic violations in District Court of Franklin County, Ozark, District, and said funds shall be used solely for the Administration of Justice. (Ord. No. 88-4, Sec. 1.)

CHAPTER 2.24

PORT AUTHORITY

Sections:

2.24.01	Created
2.24.02	Members
2.24.03	Compensation
2.24.04	Removal
2.24.05	Revenue
2.24.06	Records
2.24.07	Budget

2.24.01 Created There is hereby created and established a port authority for the city of Ozark to be known as the Port Authority of the city of Ozark, pursuant to Act No. 167 of Acts of the General Assembly of the state of Arkansas for 1947 and Acts amendatory thereto. (Ord. No. 192, Sec. 1.)

2.24.02 Members The members of the authority shall be nominated by the Mayor and confirmed by the City Council. The chairman shall be so designated in the nomination and confirmation. In the event of a vacancy, however caused, the successor shall be nominated by the Mayor and confirmed by the City Council for the unexpired term. (Ord. No. 192, Sec. 2.)

2.24.03 Compensation The member of the authority shall receive no compensation for their services. (Ord. No. 192, Sec. 3.)

2.24.04 Removal Any member of the authority appointed under the provisions of this ordinance may be removed by the Mayor provided such removal is approved by the City Council. (Ord. No. 192, Sec. 4.)

2.24.05 Revenue All revenue derived from the operation of the Port Authority, after paying the operation expenses and maintenance, shall be set aside and used for additional improvements, reserves for depreciation, or for the retirement of bonds and interest thereon issued by the City Council of the city of Ozark for the purposes in said Act 167 enumerated in the manner now provided by law. All Authority funds shall be deposited in a bank or banks to be designated by the authority. Funds of the Authority shall be paid out only upon warrants

signed by the Treasurer of the Authority and countersigned by the Chairman or acting chairman. No warrants shall be drawn or issued disbursing any of the funds of the Authority except for a purpose authorized by said Act 167 and only when the account or expenditure for which the same is to be given in payment has been audited and approved by the Authority. (Ord. No. 192, Sec. 5.)

2.24.06 Records The Port Authority shall keep a record of all revenues and expenditures of the Port Authority, its related properties and facilities, and shall submit monthly reports to the City Council of the city. It shall be the duty of the Board of the Port Authority to prepare and file an annual report of the financial affairs and conditions of said Port Authority, its related properties and facilities annually between the fifteenth (15th) day of January and the first Monday in February thereafter; the said report shall be filed in the office of the Clerk of the city, and said report shall be published in some newspaper in the city, and shall show a complete statement of all moneys received and disbursed by the Authority during the preceding year. Such statement shall show the several sources from which funds were received, and the balance on hand at the time of publishing the statement, and shall show the complete financial condition of the Authority. (Ord. No. 192, Sec. 6.)

2.24.07 Budget The said Port Authority shall submit to the city annually before the city prepares its budget, the amount of funds necessary for maintenance, operation, and management of the Port Authority, its related properties and facilities, above the estimated revenue and the funds remaining on hand. (Ord. No. 192, Sec. 7.)

CHAPTER 2.28

ADVERTISING AND TOURIST PROMOTION COMMISSION

Sections:

- | | |
|---------|---|
| 2.28.01 | Definitions |
| 2.28.02 | Gross receipts tax |
| 2.28.03 | Taxable businesses |
| 2.28.04 | Creation of City Advertising and Tourist Promotion Fund |
| 2.28.05 | Creation of City Advertising and Tourist Promotion Commission |
| 2.28.06 | Organization of Commission; powers and duties |
| 2.28.07 | Enforcement and collection |
| 2.28.08 | Examination of records |
| 2.28.09 | Notice |
| 2.28.10 | Administrative procedure |
| 2.28.11 | Certificate of indebtedness/judgment |

2.28.01 Definitions

Advertising and tourist promotion Any activity connected with tourism.

Gross receipts tax A tax of one percent (1%) upon the gross receipts or gross proceeds from renting leasing or otherwise furnishing of motel or hotel accommodations and upon the gross receipts or gross proceeds of restaurants, cafes and cafeterias in the city of Ozark, Arkansas.

Hotel and motel accommodations The renting, leasing or otherwise furnishing or accommodations in hotels or motels upon a day to day basis or a week to week basis. Provided, however, that this shall not include the renting, leasing or furnishing of accommodations upon month to month tenancies or tenancies of a longer duration.

Restaurants, cafes and cafeterias Any establishment engaged in the business of selling prepared food for consumption on the premises, and shall include the gross receipts upon all such sales of prepared foods. (Ord. No. 91-5, Sec. 1.)

2.28.02 Gross receipts tax From and after the passage and approval of this ordinance, a tax in the sum of one percent (1%) shall be levied upon the gross receipts or gross proceeds upon renting, leasing or otherwise furnishing of hotel or motel accommodations for profit, and upon the gross receipts or gross proceeds of restaurants, cafes and cafeterias within the corporate limits of the city of Ozark, Arkansas. The tax herein levied shall be paid by the person, firms or corporations liable therefore, and shall be collected by the City Advertising and Tourist Promotion Commission in the same manner and at the same time as the Arkansas Gross Receipts Act 26-52-101. All the provisions of the Act, and the rules, regulations and forms promulgated and prescribed by the Commissioners of Revenues pursuant to said act shall, as far as practicable, be applicable with respect to the enforcement and collection of the tax levied pursuant to this ordinance. (Ord. No. 91-5, Sec. 2.)

2.28.03 Taxable business The City Advertising and Tourist Promotion Commission shall prepare and maintain a current list of the business establishments in the city of Ozark subject to the above tax. (Ord. No. 91-5, Sec. 3.)

2.28.04 Creation of City Advertising and Tourist Promotion Fund

- A. The funds received by the city of Ozark Advertising and Tourist Promotion Commission, under the provisions of this ordinance, shall be paid into a fund to be known as the city of Ozark Advertising and Tourist Promotion Fund. The monies so collected shall be used exclusively for the advertising and promotion of the city of Ozark, Arkansas, and its environs and/or for the extension, equipment, improvement, maintenance, repair and operation of a convention center or convention centers in such city, and facilities necessary for, supporting or otherwise pertaining to, a convention center in the manner as shall be determined by the City Advertising and Tourist Promotion Commission.

- B. All revenues received by the city of Ozark Advertising and Tourist Promotion Commission pursuant to A.C.A. 26-75-501 – 26-75-613 shall be “special revenues,” and shall be deposited by the City Advertising and Tourist Promotion Commission in such bank account or accounts as may be designated by the city of Ozark Advertising and Tourist Promotion Commission. (Ord. No. 91-5, Sec. 4.)

2.28.05 Creation of City Advertising and Tourist Promotion Commission The city of Ozark Advertising and Tourism Promotion Commission shall be composed of seven (7) members, as follows:

- A. Four (4) members shall be owners or managers of businesses in the tourism industry, and the owner or manager shall reside in the levying municipality or outside the municipality but within the county in which the municipality is located.
- B. At least three (3) of these members shall be owners or managers of hotels, motels, or restaurants and shall serve for staggered terms of four (4) years.
- C. Two (2) members of the Commission shall be members of the governing body of the municipality (City Council) and selected by the governing body, and shall serve at the will of the governing body, and
- D. One (1) member shall be from the public at large who shall reside within the levying municipality and shall serve for a term of four (4) years.
- E. In the event of a vacancy occurring on said Commission, said vacancy shall be filled by the Mayor, subject to the approval of the Ozark City Council. Each Commissioner shall file the oath required by law in the state of Arkansas of public officials. Each Commissioner shall furnish to the city of Ozark a Five Thousand Dollar (\$5,000.00) surety bond that will serve to insure the city against misappropriation or mishandling of funds. The surety on said bonds shall be a reputable surety corporation. The premium of said bond shall be paid for the city of Ozark Advertising and Tourism Promotion Fund. (Ord. No. 2006-20, Sec. 1-5.)

2.28.06 Organization of Commission; powers and duties

- A. The city of Ozark Advertising and Tourist Promotion Commission shall meet within two (2) weeks of its appointment and shall be organized by electing a Chairman, a Secretary and a Treasurer. Thereafter, the Commission shall meet as often as may be necessary, and shall be subject to special call by the Chairman. Provided, however, that the Commission shall meet at least quarterly each year. It shall be the duty of the Secretary of said Commission to notify all members in writing at least seven (7) days in advance of said quarterly meetings.

- B. The Commissioners shall adopt such rules and regulations as they may deem necessary and expedient for the proper operation of said Commission, and they shall have the authority to alter, change or amend such rules and regulations at their discretion.
- C. The Commission, hereunder appointed, shall have the exclusive authority to utilize all revenues collected in the city of Ozark Advertising and Tourist Promotion Fund for the advertising and promotion of the city and its environs and/or for the extension, equipment, improvement, maintenance, repair and operation of a convention center or convention centers in said city, and facilities necessary for, supporting or otherwise pertaining to, a convention center as provided by A.C.A. 26-75-601 – 26-75-613.
- D. The Commissioners hereunder appointed, in addition to their other powers enumerated herein, shall have the exclusive right and power to make purchases of all supplies necessary for the management and operation of the Commission.
- E. The Commissioners shall have the authority to employ the necessary personnel to assist in the administration and operation of the city of Ozark Advertising and Tourist Promotion Fund and shall have the authority to fix the salary or salaries for such personnel. Any employee who shall handle funds for the Commission shall be required to furnish the city a surety bond, in an amount to be determined by the Commission, to insure the city against misappropriation of funds.
- F. The Commissioners shall make quarterly reports to the Mayor and City Council of the city of Ozark, Arkansas, beginning three (3) months after their oath of office, reporting in full on the operations of the Commission, including an accounting of receipts and disbursements, and shall upon request of the Ozark City Council furnish such other and further reports and data as may be required for an audit of the operations of the Commission to the Mayor and City Council of the city of Ozark, Arkansas.
- G. The failure of any Commissioners, having received due notice, to attend any two (2) consecutive meetings of said Commission and offering no sufficient excuse therefore, shall constitute cause for removal from said Commission. The Secretary shall report the dates of the non-attendance of the Commissioner to the Chairman of the Commission who shall then forward said information to the City Council for appropriate action. (Ord. No. 91-5, Sec. 6.)

2.28.07 Enforcement and collection

- A. Any person , organization, firm, group or party failing to comply with this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00),

together with costs of the proceeding. Each day said willful failure to comply continues shall constitute a separate offense and may be prosecuted accordingly. (Ord. No. 2006-20, Sec. 2.)

- B. In addition to all other powers granted to the Commission pursuant to state law, the Commission shall have full enforcement and collection powers as set forth in A.C.A. 26-75-603 and 26-18-101, set seq., as well as the power to:
- a. Assess penalties and interest against taxpayers who fail to timely report or pay the tax. The penalty shall be equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum;
 - b. Assess unpaid or unreported tax within three (3) years of the date the tax is due;
 - c. Provide for judicial relief from proposed assessments in accordance with this section;
 - d. Issue certificates of indebtedness in accordance with Section (E). (Ord. No. 2004-10, Sec. 1.)

2.28.08 Examination of records In the administration of the hotel and restaurant tax authorized by this chapter, the Commission, for the purpose of determining the accuracy of a report of fixing any liability under such tax provisions, may make an examination or investigation of the place of business, the tangible personal property, equipment, and facilities, and the books, records, papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and his agents and employees shall exhibit to the Commission these pieces and items and facilitate any examination or investigation. (Ord. No. 2004-10, Sec. 1.)

2.28.09 Notice

- A. The Commission shall give the taxpayer notice of any assessment, demand, decision, or hearing before the Commission which directly involves that taxpayer.
- B. All notice required to be given by the Commission to a taxpayer shall be either served by personal service or set by mail to the taxpayer's last address on record with the Commission. If this mail is returned unclaimed or refused, then proper notice shall have been served and given, and the Commission may take any action permitted by this section and A.C.A. 26-75-603.

- C. If any taxpayer fails to file a report and remit the hotel and restaurant tax as provided for by this section, the Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax due in accordance with the following procedure: The Commission shall propose the assessment of tax due, plus penalties, as the case may be, and shall give notice of the proposed assessment to the taxpayer. (Ord. No. 2004-10, Sec. 1.)

2.28.10 Administrative procedure Any taxpayer who wishes to seek administrative relief from any proposed assessment of taxes shall do so pursuant to the following procedures:

- A. A taxpayer may at his option either request the Commission to consider his request for relief solely upon written documents furnished by the taxpayer or upon the written documents and any evidence produced by the taxpayer at a hearing.
- B. A taxpayer who requests the Commission to render its decision based on written documents is not entitled by law to any other administrative hearing prior to the Commission's rendering of its decision, and, if necessary, the issuing of a final assessment and demand for payment or issuing of a certificate of indebtedness.
- C. If the taxpayer requests a hearing, the Commission shall set the time and place for hearing and shall give the taxpayer reasonable notice thereof.
- D. Within thirty (30) days of the issuance and service on the taxpayer of the notice and demand for payment of a deficiency in tax established by
 - 1. a proposed assessment which is not protested by the taxpayer under this chapter, or
 - 2. a final determination of the Commission following administrative review, the taxpayer may seek judicial relief from the final determination in accordance with A.C.A. 26-75-603(d). (Ord. No. 2004-10, Sec. 1.)

2.28.11 Certificate of indebtedness/judgment

- A. If a taxpayer does not timely and properly pursue his remedies seeking relief from a decision of the Commission, and a final assessment is made against the taxpayer, or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the Commission shall, as soon as practicable thereafter, utilize the provisions of A.C.A. 26-75-603(e) to enforce payment by issuing to the Circuit Clerk a certificate of indebtedness certifying that the person named therein is indebted to the Commission for the amount of the tax established by the Commission as due.

- B. The Circuit Clerk shall enter immediately upon the Circuit Court judgment docket:
1. The name of the delinquent taxpayer;
 2. The amount certified as being due;
 3. The name of the tax; and
 4. The date of entry upon the judgment docket.
- C. The entry of the certificate of indebtedness shall have the same force and effect as the entry of judgment rendered by the Circuit Court. This entry shall constitute the Commission's lien upon the title of any real and personal property of the taxpayer in the county where the certificate of indebtedness is recorded.
- D. The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run. Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.
- E. The Commission shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law. (Ord. No. 2004-10, Sec. 1.)

CHAPTER 2.32

OZARK TOURIST FACILITIES BOARD

Sections:

2.32.01	Created
2.32.02	Name
2.32.03	Members
2.32.04	Powers
2.32.05	Revenue bonds
2.32.06	Duties

2.32.01 Created In accordance with and pursuant to the authority conferred by the provisions of Act. No. 142, there is hereby created and established a Public Facilities Board (the "Board") with authority as hereinafter provided to accomplish, finance, contract concerning and otherwise dispose of and deal with "tourist facilities" (as defined in Act. No. 142) to be owned and operated by Richard B. Griffin and/or Riverbend Constructors, Inc. (Ord. No. 82-9, Sec. 1.)

2.32.02 Name The name of the Board shall be Ozark Tourist Facilities Board. (Ord. No. 82-9, Sec. 2.)

2.32.03 Members The initial members of the Board, each of whom is a qualified elector of the city, and their respective terms of office shall be:

David Gibbons	Five years
Charles Otto Haberer	Four years
Winston Hardin	Three years
Ann Wiggins	Two years
Mary Yates	One year

Each members shall take and file with the City Clerk the oath of office prescribed by Act No. 142. (Ord. No. 82-9, Sec. 3.)

2.32.04 Powers The Board is empowered, from time to time, to own, acquire, construct, reconstruct, extend, equip, improve, sell, lease, contract concerning or otherwise dispose of tourist facilities (including specifically the proposed improvements as hereinbefore defined); provided, however, that the authority of the Board shall be limited to such tourist facilities as are to be sold or leased to Richard B. Griffin and/or Riverbend Constructors Inc., or as are otherwise financed by the load of funds by the Board to Richard B. Griffin and/or Riverbend Constructors, Inc. (Ord. No. 82-9, Sec. 4.)

2.32.05 Revenue bonds The Board is authorized to issue revenue bonds from time to time and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the proposed improvements. Such revenue bonds shall be obligations only of the Board and shall not constitute an indebtedness for which the faith and credit of the city or any of its revenues are pledged, and the principal of and interest on the bonds shall be payable from and secured by a pledge of revenues derived from the proposed improvements, in whole or in part, by such bonds, as authorized by and in accordance with the provisions of Act. No. 142. (Ord. No. 82-9, Sec. 5.)

2.32.06 Duties The Board shall have all of the powers provided for in Act No. 142, subject to the limitations of this ordinance, and shall carry out its duties in accordance with Act. No. 142, including specifically, without limitation, the filing of the annual report required by Section 18 of Act No. 142. The Board shall, in all dealings with Richard B. Griffin and/or Riverbend Constructors, Inc., take all appropriate action necessary to comply with the Constitution and laws of the United States of America and of the state of Arkansas. (Ord. No. 82-9, Sec. 6.)

CHAPTER 2.36

CODE OF ETHICS

Sections:

2.36.01	Definitions
2.36.02	Compliance with law
2.36.03	Advisory opinions
2.36.04	Use of influence and knowledge for personal gain
2.36.05	Contracts with the city of Ozark
2.36.06	Conflicts of interest
2.36.07	Receipt of gifts

2.36.01 Definitions

Business means any specific and particular corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust or any legal entity through which a commercial enterprise is conducted.

City official means any individual holding an elected or appointed position in the government of the city of Ozark. This includes but is not limited to the Mayor, the members of the City Council, the City Clerk, the City Treasurer, the City Attorney, members of the Planning Commission, and Department Heads.

Compensation means any money or anything of value received or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof. It includes a payment made under obligation for services or other value received.

Contracts means any contract, lease agreement, grant, request for proposal, sub-grant, sub-contract, sublease or assignment.

Family means an individual who is a spouse, natural or adopted child, parent, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law.

Financial interest means any relationship to a business in which a city official or member of his or her family is an officer, director, or owns more than a ten percent (10%) interest.

Gift means any payment, entertainment, advance, services or anything of value, unless consideration of equal or greater value has been given therefore. It does not include:

- A. Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties. (Note: payments for travel or reimbursement for any expenses are not informational material);
- B. The giving or receiving of food, lodging, or travel which bears a relationship to the public servant's office and when appearing in an official capacity;
- C. Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor;
- D. Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this paragraph;
- E. Campaign contributions;
- F. Any devise or inheritance;
- G. Anything with a value of \$100.00 or less; or
- H. Wedding presents.

Person means a business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons. (Ord. No. 2005-10, Sec. 1.)

2.36.02 Compliance with law City officials shall comply with all constitutional and statutory provisions relating to elected office. Violation of any constitutional or statutory provision shall be grounds for administering penalties as provided in the Code of Ethics. (Ord. No. 2005-10, Sec. 2.)

2.36.03 Advisory opinions A city official may request in writing an advisory opinion from the City Attorney concerning his or her compliance with the city of Ozark Code of Ethics. (Ord. No. 2005-10, Sec. 3.)

2.36.04 Use of influence and knowledge for personal gain A city official, personally or through others, shall not knowingly:

- A. Use the influence or knowledge of his or her office to obtain personal or family financial gain other than that provided by law for the performance of the city official's duties.
- B. Acquire a financial interest in any business which the city official has reason to believe may be directly affected to its economic benefit by action taken by the city of Ozark.

- C. Perform an act that adversely affects a business when the city official or his or her family has a financial interest in a competing business.
- D. Use or attempt to use his or her official position to secure or create privileges, advantages, or special treatment for the city official's benefit or the benefit of the city official's family unless the enactment or administration of law benefits the public generally.
- E. Use of public funds or the time or counsel of public employees, for his or her personal or family gain.
- F. Use his or her official position by any means to influence any city department or employee for personal or family gain by the use of express or implied threat of reprisal. (Ord. No. 2005-10, Sec. 4.)

2.36.05 Contracts with the city of Ozark No city official shall have a financial interest in any contract with the city unless it is awarded through a process of public notice and competitive bidding, or through a public notice requesting proposals. Contracts entered into prior to a city official's beginning his or her term or appointment are not subject to this rule. Extension of any such contracts are subject to the provisions of this rule. Further, contracts for the purchase of goods or the providing of services with a value of less than Five Hundred Dollars (\$500.00) are not subject to this rule. However, such contracts under Five Hundred Dollars (\$500.00) shall be subject to all other provisions of this ordinance. (Ord. No. 2005-10, Sec. 5.)

2.36.06 Conflicts of interest A city official shall not participate in the discussion of a question or vote on any matter in which the city official knows:

- A. He or she, or any member of his or her family, or a business in which the city official has a financial interest, will derive a benefit as a result of legislative action. This prohibition does not apply when the matter provides a benefit to the city official, his or her family, or business associate, as a member of a business, profession, occupation or other group.
- B. Will specifically relate to a business which employ the city official or in which he or she receives compensation as an attorney or consultant. This prohibition does not apply when the matter provides a benefit, which accrues, generally to other like businesses, professions, occupations, or other groups. (Ord. No. 2005-10, Sec. 6.)

2.36.07 Receipt of gifts All city officials will abide by A.C.A., Title 21, Chapter 8 (Ethics and Conflicts of Interest), and the rules established by the Arkansas Ethics Commission concerning the receipt of gifts by public servants. (Ord. No. 2005-10, Sec. 7.)

2.36.08 Penalties

- A. Any city official that violates 2.32.04, 2.32.05 or 2.32.06 of this ordinance shall, upon conviction in District Court, be subject to a fine not exceeding the sum of Two Hundred Fifty Dollars (\$250.00) for each and every violation.
- B. Any city official that violates A.C.A., Title 21, Chapter 8, shall be subject to the penalties prescribed by that chapter. (Ord. No. 2005-10, Sec. 8.)

CHAPTER 2.40

PERSONNEL POLICIES

Sections:

- 2.40.01 Adopted
- 2.40.02 Amendments
- 2.40.03 Salaries

2.40.01 Adopted The attached Personnel Policy Manual and all provisions there shall be and hereby are adopted as the official Personnel Policy Manual for the non-police employees of the city of Ozark. Each employee of the city of Ozark shall be provided a copy of this new and modified Personnel Policy Manual, and each employee shall be required to sign a statement that they have received a copy of same. (Ord. No. 2000-1, Sec. 2.)

2.40.02 Amendments

Ord. No. 2001-8

Section I Employment Policies

Authority to Hire and Fire The Mayor of the city of Ozark has the final authority to hire and fire any and all employees of the city. The Mayor shall have all authority to hire and fire department heads or supervisors. Department heads may hire and fire employees within their respective departments with approval of the Mayor. The decision to hire an employee other than a department head may be overridden by a 2/3 majority vote of the total membership of the City Council.

Section I Employment Policies

Job Posting and Advertising An application for employment will be accepted from anyone who wishes to apply for employment on forms provided by the city. Application forms are available in the office of the City Clerk.

Openings will be filled at the discretion of the Mayor, subject to the 2/3 majority vote override that the City Council may implement. Applications for full time employment will not be accepted from anyone under eighteen (18) years of age.

Section II General Employee Benefits

Sick Leave An employee who is unable to report for work due to one of the previously listed sick leave reasons shall report his absence to the employee's supervisor or someone acting for the employee's supervisor within one (1) hour from the time the employee is expected to report for work. Sick leave with pay may not be allowed unless such report has been made as aforementioned.

Section III Matters Affecting the Status of Employees

Work Hours Except for police officers, work hours for all employees shall be forty (40) hours per week Monday through Friday. Work hours for police shall be in accordance with state statutes and departmental regulations.

Section III Matters Affecting the Status of Employees

Vacancies and Promotions The final decision regarding promotions shall be made by the Mayor upon the recommendation of the Department Head. However, the promotion decision may be overridden by a 2/3 majority vote of the City Council.

Yearly pay step increases or promotion shall be made by the Mayor upon recommendation by the Department Head. Each employee shall become eligible to receive a step increase after 12 months continuous service and satisfactory performance evaluation (see below). However, once again, the increases and promotions may be overridden by a 2/3 majority vote of the City Council.

Section IV Standards of Conduct

Guidelines for Appropriate Conduct

7. Buying or using alcoholic beverages while on city property or using alcoholic beverages while engaged in city business;

Ord. No. 2001-11

Section III Matters Affecting the Status of Employees

Work Hours Except for police officers, work hours for all employees shall be forty (40) hours per week with the work week beginning 5:00 p.m. Friday and ending 5:00 p.m. the following Friday. Work hours for police shall be in accordance with state statutes and departmental regulations.

2.40.03 Salaries

- A. For the fiscal year 2010, the following named position will have an established salary or hourly rate at the level set opposite each position listed below:

Mayor	\$36,791
City Clerk	\$34,815
Aldersperson	\$300/mo
Pool Manager	\$8.75/hr
Head Lifeguard	\$7.50/hr
Lifeguard	\$7.25/hr

(Ord. No. 2009-25, Sec. 1.)

- B. All other employees' salary will increase by 2%, and will be subject to the attached wage schedule and conditions for salary increase adopted by City Council which is incorporated herein. (Ord. No. 2009-25, Sec. 2.)

- C. For the fiscal year 2010, the following named position will have an established salary or hourly rate at the level set opposite each position listed below:

Part-time certified officers	\$11.50/hr.
Part-time non-certified officers	\$10.00/hr

(Ord. No. 2010-1, Sec. 1.)

CITY OF OZARK ORDINANCE NO. 1995- 12

AN ORDINANCE ESTABLISHING A PROCEDURE FOR PURCHASING, SALE OR EXCHANGE OF PROPERTY IN COMPLIANCE WITH ARKANSAS STATUTORY LAW; REPEALING ORDINANCE NO. 1987-5; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

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

SECTION I: The Mayor, or his duly authorized representative, shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and make contracts for work or labor and other things requisite for the benefit of the City of Ozark.

SECTION II: All purchases for the City of supplies, apparatus, equipment, materials, and other things requisite for public purposes where the expenditure therefore is in excess of Two Thousand Dollars (\$2,000.00) but less than Ten Thousand Dollars (\$10,000.00) shall be made by the Mayor, or his duly authorized representative, after the securing of quotation bids therefor; provided, however, purchases of less than Ten Thousand Dollars (\$10,000.00) at state bid prices shall be exempt from the provisions of this ordinance.

SECTION III: Where the amount of expenditure for any purchase or contract exceeds the sum of Ten Thousand Dollars (\$10,000.00), the Mayor, or his duly authorized representative, shall invite competitive bids thereon by legal advertisement in any local newspaper. Bids received pursuant to said advertisement shall be opened and read on the date set for receiving said bids, in the presence of the Mayor, or his duly authorized representative. The contract shall be awarded to the lowest responsible bidder; provided, however, the Mayor, or his duly authorized representative, may reject any and all bids received.

SECTION IV: The Mayor, or his duly authorized representative, may approve for payment out of any funds previously appropriated for that purpose, or disapprove any bills, debts or liabilities asserted as claims against the City, when funds on hand are adequate to pay such bills, debts or liabilities. The payment or disapproval of any bills, debts or liabilities not covered by a previous appropriation shall require confirmation of the governing body.

SECTION V: The Mayor, or his duly authorized representative, may sell or exchange any municipal supplies, material or equipment without competitive bidding if such supplies, materials or equipment have a value of less than Two Thousand Dollars (\$2,000.00). No supplies, material or equipment shall be sold without receiving competitive

bids therefore if the value thereof exceeds the sum of Two Thousand Dollars (\$2,000.00); provided, however, if the Mayor shall certify in writing to the governing body that, in his opinion, the fair market value of such item or lot (to be disposed of in one unit) is less than Two Thousand Dollars (\$2,000.00), the same may be sold by the Mayor without competitive bidding.

SECTION VI: All ordinances or parts of ordinances in conflict herewith are hereby repealed, including, but not limited to ordinance No. 1987-5.

SECTION VII: The City Council of the City of Ozark may, after a finding that the exceptional situation exists and that competitive bidding is not practical or feasible waive, by ordinance, in each exceptional situation, the requirements of competitive bidding.

SECTION VIII: The provisions of this ordinance are hereby declared to be severable if any section, paragraph, sentence, or clause of this ordinance shall be held invalid, the validity of such section, paragraph, sentence or clause shall not affect the validity of said ordinance.


SECTION IX: Whereas, State laws require the establishment of a procedure of municipal purchases under Ten Thousand Dollars (\$10,000.00) and this ordinance being necessary for the immediate protection of the public peace, health and safety, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 12th day of June, 1995.



Mayor, Vernon McDaniel

ATTEST:



City Clerk, Carol Sneath

JPV:rm6
ozark.ord

TITLE 3**FISCAL AFFAIRS****Chapters:**

- 3.04 Purchases
- 3.08 Real Estate and Personal Property Taxes

CHAPTER 3.04**PURCHASES****Sections:**

- 3.04.01 Authority
- 3.04.02 Under \$10,000
- 3.04.03 Over \$10,000.00
- 3.04.04 Approval of payments
- 3.04.05 Sale or exchange of supplies, materials or equipment valued at less than \$1,000.00
- 3.04.06 Exceptional situation

3.04.01 Authority The Mayor or his duly authorized representative shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials and make contracts for work or labor and other things requisite for the benefit of the city of Ozark. (Ord. No. 95-12, Sec. 1.)

3.04.02 Under \$10,000 All purchases for the city of supplies, apparatus, equipment, materials, and other things requisite for public purposes where the expenditure therefore is in excess of Two Thousand Dollars (\$2,000.00) but less than Ten Thousand Dollars (\$10,000.00) shall be made by the Mayor, or his duly authorized representative, after the securing of quotation bids therefore; provided, however, purchases of less than Ten Thousand Dollars (\$10,000.00) at state bid prices shall be exempt from the provisions of this ordinance. (Ord. No. 95-12, Sec. 2.)

3.04.03 Over \$10,000.00 Where the amount of expenditure for any purchase or contract exceeds the sum of Ten Thousand Dollars (\$10,000.00), the Mayor or his duly authorized representative shall invite competitive bids thereon by legal advertisement in any local

3.04.03 Over \$10,000.00 Where the amount of expenditure for any purchase or contract exceeds the sum of Ten Thousand Dollars (\$10,000.00), the Mayor or his duly authorized representative shall invite competitive bids thereon by legal advertisement in any local newspaper. Bids received pursuant to said advertisement shall be opened and read on the date set for receiving said bids, in the presence of the Mayor, or his duly authorized representative. The contract shall be awarded to the lowest responsible bidder; provided, however, the Mayor, or his duly authorized representative, may reject any and all bids received. (Ord. No. 95-12, Sec. 3.)

3.04.04 Approval of payments The Mayor or his duly authorized representative may approve for payment out of any funds previously appropriated for that purpose, or disapprove any bills, debts or liabilities asserted as claims against the city, when funds on hand are adequate to pay such bills, debts or liabilities. The payment or disapproval of any bills, debts or liabilities not covered by a previous appropriation shall require confirmation of the governing body. (Ord. No. 95-12, Sec. 4.)

3.04.05 Sale or exchange of supplies, materials or equipment valued at less than \$1,000.00 The Mayor or his duly authorized representative, may sell or exchange any municipal supplies, material or equipment without competitive bidding if such supplies, materials or equipment have a value of less than One Thousand Dollars (\$1,000.00). No supplies, materials or equipment shall be sold without receiving competitive bids therefore fit the value thereof exceeds the sum of One Thousand Dollars (\$1,000.00); provided however, if the Mayor shall certify in writing to the governing body that, in his opinion, the fair market value of such item or lot (to be disposed of in one unit) is less than One Thousand Dollars (\$1,000.00), the same may be sold by Mayor without competitive bidding. (Ord. No. 2003-7, Sec. 1.)

3.04.06 Exceptional situation The City Council of the city of Ozark may, after a finding that an exceptional situation exists and that competitive bidding is not practical or feasible, waive, by ordinance in each exceptional situation, the requirements of competitive bidding. (Ord. No. 2003-7, Sec. 2.)

CHAPTER 3.08

REAL ESTATE AND PERSONAL PROPERTY TAXES

Sections:

- | | |
|---------|-------------------|
| 3.08.01 | Taxes |
| 3.08.02 | Sales and Use Tax |

Administration, Division of Revenues, State of Arkansas; and (c) the provisions of Act 25 of 1981, First Extraordinary Session.

- D. A person from whom taxes levied by this Ordinance have been collected may be entitled to a rebate for taxes paid on gross receipts, gross proceeds or sales price in excess of two thousand five hundred dollars (\$2,500) from the sale of a: (a) motor vehicle; (b) aircraft, (c) watercraft; (d) modular home; (e) manufactured home, or (f) mobile home in accordance with A.C.A. §26-75-222.
- E. The Sales and Use Tax shall be allocated as follows: (a) 7/8% to the payment of principal and interest on the Bonds, which portion of the Sales and Use Tax shall expire on the last day of the last month of the calendar quarter in which the Bonds or any bonds issued in refunding thereof shall have been retired, and (b) 1/8% to the Operation and Maintenance Fund and for the purpose of paying principal and interest on the Bonds.
- F. If any part of this Ordinance is held invalid, such invalidity shall not affect any other portion of this Ordinance that can be made effective without invalidity.

CHAPTER 3.12

FIXED ASSETS

Sections:

3.12.01 Fixed assets

3.12.01 Fixed assets Fixed assets shall be recognized as Two Thousand Five Hundred Dollars (\$2,500.00). (Ord. No. 2012-11, Sec. 1.)

TITLE 4

BUSINESS LICENSES AND REGULATIONS

Chapters:

- 4.04 Electric Franchise
- 4.08 Gas Franchise
- 4.12 Telephone Franchise
- 4.16 Cable Television Franchise
- 4.20 Occupation Tax
- 4.24 Garage Sales
- 4.28 Pinnacle Telecom.

CHAPTER 4.04

ELECTRIC FRANCHISE

Sections:

- 4.04.01 Tax
- 4.04.02 Easement granted

4.04.01 Tax

- A. The Oklahoma Gas and Electric Company which is conducting or carrying on business in the city of Ozark, Arkansas, under a franchise shall pay a privilege tax in the sum of Nine Thousand Dollars (\$9,000.00) per annum and said sum shall be payable on or before the tenth day of January 1975, for the calendar year, and a like sum annually thereafter.
- B. Said privilege tax shall be paid in lieu of all other taxes, licenses, charges, fees or impositions except general or special ad valorem taxes which might be lawfully imposed by the city.
- C. As an incident to the privilege hereby taxed Oklahoma Gas and Electric Company shall have the right to occupy present or future streets, highways, alleys, or other public way of the aforesaid municipality for the purpose of carrying on its said business. (Ord. No. 232, Sec. 1-3.)

4.04.02 Easement granted Oklahoma Gas and Electric Company is in need of an easement for the erection, operation and maintenance of a system of poles, wires and other necessary fixtures for the transmission and communication of messages upon, over, under and across the following described property, to wit:

A ten (10) foot wide easement being five (5) feet each side of the centerline lying in the west 32 feet of Lot 3, Block 2, Original Town of Ozark, being carved out of Section 36, Township 10 North, Range 27 West, being more particularly described as follows: Commencing at the northeast corner of Lot 3, Block 2, Original Town of Ozark; thence west along the north line thereof 28 feet; thence continue west 20 feet more or less to an existing OG&E pole and the point of beginning; thence southeasterly 55 feet to the east property line and the point of terminus. The centerline of this easement shall be along the actual route of the line as installed and shall include any additional easement area needed for downguys or anchors. (Ord. No. 2009-3, Sec. 1.)

CHAPTER 4.08

GAS FRANCHISE

Sections:

- 4.08.01 Gas franchise granted to Arkansas Western Gas Company
- 4.08.02 Rights and responsibilities of Gas Company and city
- 4.08.03 Facilities
- 4.08.04 Information
- 4.08.05 Rights granted
- 4.08.06 Rates
- 4.08.07 Precautions
- 4.08.08 State of repair
- 4.08.09 Franchise tax
- 4.08.10 Rate schedule and balance
- 4.08.11 Individual gas service
- 4.08.12 Contract

4.08.01 Gas franchise granted to Arkansas Western Gas Company. That the city of Ozark, Arkansas, (hereafter called Grantor) hereby grants to the Arkansas Western Gas Company the exclusive right, privilege and authority within the present and all future expansions of the corporate limits of the city of Ozark, Arkansas, except any portion which may be located within the legally allocated territory of another utility, (1) to sell, furnish, transmit, and distribute gas service to Grantor and to all inhabitants and consumers within the said limits; and (2) subject to the terms, conditions and stipulations mentioned in this ordinance, consents and the right, permission and franchise is hereby given to the Arkansas Western Gas Company, a corporation

4.08.05 Rights granted The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this ordinance, and thereafter until terminated in accordance with provisions of Section 44 of Act 324 or the 1935 Acts of the state of Arkansas, as presently enacted hereafter amended. (Ord. No. 81-1, Sec. 5.)

4.08.06 Rates The rates which are to be charged by Grantee for gas service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 81-1, Sec. 6.)

4.08.07 Precautions In the construction, operation, and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons, or expense caused by the negligence of the Grantee, or its agents, servants or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds. (Ord. No. 81-1, Sec. 7.)

4.08.08 State of repair The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair, and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force. (Ord. No. 81-1, Sec. 8.)

4.08.09 Franchise tax Beginning in January 1, 1981, and thereafter during the life of this franchise, the Grantee shall pay to Grantor each thirty (30) days after each month a franchise tax in an amount equal to four percent (4%) of the preceding month's gross residential and commercial gas revenues as paid to the Grantee by residential, commercial and industrial customers located within the corporate limits of the city of Ozark. Residential, commercial and industrial gas revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the city of Ozark upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and tax payers) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in 4.04.09 hereof, to pay the city the sum of four percent (4%) monthly of the gross residential, commercial and industrial gas revenues shall immediately terminate. (Ord. No. 81-1, Sec. 9.)

organized and existing pursuant to the laws of the state of Arkansas, (hereinafter called Grantee), and to its successors, lessees and assigns to lay, construct, equip, operate, repair and maintain a system of gas mains, pipes, conduits, feeders and the appurtenances for the purpose of supplying and distributing natural gas for light, fuel, power and heat and for any other purposes to the residents or inhabitants of the said city and further, the right to lay, construct, operate and maintain a system of gas mains, pipe lines, pipe conduits and feeders and the necessary attachments, connections, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said city limits in order to enable the said Grantee to distribute and sell natural gas to the said city and to the residents or inhabitants thereof and to others, and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing and cooperating stubs, conduits, and other related facilities, appliances and apparatus which are necessary for, or useful in, the furnishing, sale, transmission or distribution of said gas service (hereinafter called facilities). (Ord. No. 81-1, Sec. 1.)

4.08.02 Rights and responsibilities of Gas Company and city Grantee shall, and does by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable gas service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve consumers, in all area and zones of the city, consents to the construction of such facilities as defined in 4.04.01 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to Grantee set forth in 4.04.01 from interference with, or duplication by, other persons, firms or corporation seeking to engage in the sale or distribution of gas energy. (Ord. No. 81-1, Sec. 2.)

4.08.03 Facilities All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Safety Codes. Grantee, its successors and assigns, shall replace and repair, at its own expense and approval of the Grantor all excavation, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities. (Ord. No. 81-1, Sec. 3.)

4.08.04 Information The Grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits, or service pipes, in any form whatsoever, and any other information in regard to its occupation of roads, highways, streets, avenues, or public grounds of said city, which they may demand. (Ord. No. 81-1, Sec. 4.)

4.08.05 Rights granted The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this ordinance, and thereafter until terminated in accordance with provisions of Section 44 of Act 324 or the 1935 Acts of the state of Arkansas, as presently enacted hereafter amended. (Ord. No. 81-1, Sec. 5.)

4.08.06 Rates The rates which are to be charged by Grantee for gas service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 81-1, Sec. 6.)

4.08.07 Precautions In the construction, operation, and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons, or expense caused by the negligence of the Grantee, or its agents, servants or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds. (Ord. No. 81-1, Sec. 7.)

4.08.08 State of repair The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair, and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force. (Ord. No. 81-1, Sec. 8.)

4.08.09 Franchise tax Beginning in January 1, 1981, and thereafter during the life of this franchise, the Grantee shall pay to Grantor each thirty (30) days after each month a franchise tax in an amount equal to four percent (4%) of the preceding month's gross residential and commercial gas revenues as paid to the Grantee by residential, commercial and industrial customers located within the corporate limits of the city of Ozark. Residential, commercial and industrial gas revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the city of Ozark upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and tax payers) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in 4.04.09 hereof, to pay the city the sum of four percent (4%) monthly of the gross residential, commercial and industrial gas revenues shall immediately terminate. (Ord. No. 81-1, Sec. 9.)

4.08.10 Rate schedule and balance Gas service furnished the Grantor and other purposes shall be paid for the Grantor in accordance with the applicable rate schedules of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of crediting amount due Grantor with any unpaid balances due said Grantee for gas service rendered to said Grantor. (Ord. No. 81-1, Sec. 10.)

4.08.11 Individual gas service Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing, or furnishing gas energy for his or its own use or the use of his or its tenants, all of which facilities and use wholly on the same premises owned by such person, firm or corporation. (Ord. No. 81-1, Sec. 11.)

4.08.12 Contract Upon written acceptance by Grantee, this ordinance shall constitute a contract between Grantor and the Grantee, and its successors and assigns. (Ord. No. 81-1, Sec. 12.)

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

- 4.12.01 Franchise granted to Continental Telephone Company
- 4.12.02 Franchise tax
- 4.12.03 Payment by Company

4.12.01 Franchise granted to Continental Telephone Company Permission be and is hereby granted to Continental Telephone Company of Arkansas, its successors and assigns, to construct, maintain and operate, its poles, posts, cables, wires and all other necessary overhead apparatus on, over and along, and its conduits, ducts, mains, pipes, cables, wires, manholes, distributing poles and all other necessary underground appliances on, in, under and through the streets, alleys and highway, within limits of the city of Ozark, state of Arkansas, for a period of ten (10) years from the date of the enactment hereof; and to use the property of other companies and permit other companies to use its property upon such arrangements as the two companies may agree subject to the following conditions:

- A. That all poles erected by said Company shall be located so they will not interfere with the safety of convenience of persons traveling on or over the said streets, alleys and highways, and in the work of installing and maintaining its

underground system, said Company shall not open or encumber more of any street, alley or highway than will be necessary to enable it to perform same with proper economy and efficiency, nor shall it permit such opening or encumbrance to remain for a longer period that shall be necessary to do the work for which said opening shall have been made.

- B. That all work done under the provisions of the ordinance in said city, shall be subject to the supervision of the City Engineer or some other representative appointed by said Council and said Company shall replace and properly relay any sidewalk or street pavement which may have been displaced or damaged in the construction and maintenance of its system in said city.
- C. That said Company shall maintain all poles, cables, wires, conduits, ducts, mains, pipes, manholes, distribution poles and all other apparatus erected or constructed under the provisions of this ordinance, in good and safe order and conditions and shall at all times fully indemnify, protect, and save harmless the said city from and against all loss and necessary expenditures arising from the erection, construction and maintenance of its system in said city, or from its neglect or failure to maintain the said apparatus in good and safe order and condition.
- C. That nothing in this ordinance shall be construed to grant unto the said Continental Telephone Company of Arkansas, any exclusive rights, or to prevent a grant of similar privileges to other companies. (Ord. No. 307, Secs. 2-5.)

4.12.02 Franchise tax Beginning in 1081, Continental Telephone Company of Arkansas its successors or assigns, shall operate a telephone system within the city. It shall pay to the city a franchise tax in an amount equal to four percent (4%) of the basic local telephone service, excluding extensions, terminal equipment, toll, yellow pages and other miscellaneous equipment, revenues within the corporate boundaries of the city at the end of each month, the first remittance to be made within ten (10) days of January 31, 1981, provided, the amount of the tax levied herein by the city may be collected by the Telephone Company from those of the Telephone Company customers receiving local exchange telephone service within the corporate boundaries of the city of Ozark, in accordance with the tariffs of the telephone company and rules, regulations and orders of the Arkansas Public Service Commission. This ordinance does not restrict the city from the right to alter the rat of tax, upon proper notification in advance to the Telephone Company. (Ord. No. 307, Sec. 6.)

4.12.03 Payment by Company It is expressly agreed and understood by the city of Ozark and Continental Telephone company of Arkansas that the aforesaid payment shall constitute and be considered as complete payment and discharge by continental Telephone company of Arkansas, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and taxpayers) which are not or might in the future be imposed by the city of Ozark under authority conferred upon the city of Ozark by law. In the

event such other taxes are imposed by the city of Ozark, the obligation of continental Telephone Company of Arkansas to pay the city of Ozark the franchise tax set out in 4.12.02 of this ordinance shall be immediately terminated. (Ord. No. 307, Sec. 7.)

CHAPTER 4.16

CABLE TELEVISION FRANCHISE

Sections:

- 4.16.01 Franchise granted to Cebridge Acquisitions, LP, d/b/a Suddenlink Communications
- 4.16.02 Franchise period
- 4.16.03 Construction
- 4.16.04 Regulation of construction
- 4.16.05 Location of facilities
- 4.16.06 Moving wires
- 4.16.07 Trimming trees
- 4.16.08 Rates
- 4.16.09 Complaints
- 4.16.10 Police power
- 4.16.11 Insurance
- 4.16.12 Stations
- 4.16.13 Franchise tax
- 4.16.14 Sale or merger
- 4.16.15 FCC forms

4.16.01 Franchise granted to Cebridge Acquisitions, LP, d/b/a Suddenlink Communications The city of Ozark is satisfied as to the franchisee's legal, character, financial, technical, and other qualifications, and the adequacy and feasibility of its construction arrangements have been approved by the city of Ozark as part of a full public proceeding affording due process, at a regularly scheduled meeting of the governing body of the city of Ozark, and does hereby bestow the right, power and authority to establish, construct, acquire, maintain and operate a Community Antenna Television and closed-circuit electronic system within the city of Ozark: to render, furnish, sell, and distribute television signals and programs and entertainment for all purposes, together with closed-circuit electronic service from such system to the inhabitants of city and its environs; and to use and occupy the streets, alleys, easements and other public places of said city as the same now exist or may hereafter exist, for the franchisee's Community Antenna Television and closed-circuit electronic system, including the right to enter and construct, erect, locate, re-locate, repair and rebuilt in, on, under, along, over and across the streets, alleys, easements and other public places of said city all towers,

poles, cables, amplifiers, conduits, and other facilities owned, leased or otherwise used by the Grantee for the furnishing of a Community Antenna Television and closed-circuit electronic service within the city and environs thereof during the continuance of the franchise hereby granted. (Ord. No. 257, Sec. 1.)

4.16.02 Franchise period The city of Ozark hereby extends the franchise for an additional five (5) years beginning on the 10th day of November 2006, and ending on the 9th day of November, 2011.

Upon expiration of the initial term, this franchise may be extended for two (2) additional consecutive five (5) year term provided Grantee delivers written notice of its intent for such additional five (5) year term to the city of Ozark at least twelve (12) months prior to the expiration of each term. (Ord. No. 2006-10, Sec. 1-2.)

4.16.03 Construction The franchise shall accomplish significant construction within one (1) year after receiving the Federal Communications Commission's Certificate of Compliance, and shall thereafter equitably and reasonably extend energized trunk cable to a substantial percentage having been determined by the city of Ozark to be:

Where as the cable system is totally built and serves the entire area a service schedule is not included.

- A. The franchisee's transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with any improvements the city may deem proper to make or hinder unnecessarily or obstruct the free public use of the streets, alleys, easements, bridges or other public property. That the franchisee's transmission and distribution system shall in no way interfere with other public utilities now in existence and in operation nor will it interfere with the continued operation and expansion of said public utilities.
- B. The franchise shall have the right to set, erect, install, and maintain its own poles for the mounting of its amplifiers, cables, and appurtenances; provided that the franchisee shall keep and maintain a complete set of maps showing the location of all such poles and that the city shall be provided with a copy of this map, said map to be kept up to date and accurate at all times, such updating to be the responsibility of the franchisee.
- C. The maintenance and operation of its transmission and distribution system in the streets, alleys, easements and other public places and in the course of any new construction or addition to its facilities. The franchisee shall proceed so as to cause the least possible inconvenience to the general public. All excavations shall be properly guarded and protected and shall be replaced and the surface restored in a good condition promptly after completion of such work. The franchisee shall at all times comply with any and all rules and regulations which the city has made

or may make applying to the public generally with reference to the removal or replacement of pavement and to excavations in the streets and other public places. (Ord. No. 257, Sec. 3.)

4.16.04 Regulation of construction The city reserves the right of reasonable regulation of the erection, construction or installation of any facilities or by the franchisee and to reasonably designate where such facilities are to be placed within the public ways and places. (Ord. No. 257, Sec. 4.)

4.16.05 Location of facilities In the event the city shall lawfully elect to change or alter the location or grade of any street, alley, easement or other public place, or change or re-locate or replace its utility poles at any time during the existence of this franchise, the franchisee shall, upon reasonable notice given by the city, remove, relay and/or re-locate any system installation affected by such change, by and at franchisee's expense. (Ord. No. 257, Sec. 5.)

4.16.06 Moving wires The franchisee shall, upon the request of any person holding a building or moving permit, temporarily raise or lower its wires to permit the moving of buildings and other structures. The actually and necessary expense of such temporary removal, raising, or lowering of wires shall be paid by the person requesting the same, and the franchisee shall have the authority to request and require such payment in advance. The franchisee shall be given not less than 48 hours advance notice to arrange for such temporary wire changes. (Ord. No. 257, Sec. 6.)

4.16.07 Trimming trees The franchisee shall have the authority to trim trees upon and over-hanging streets, alleys, sidewalks, and public places and easements of the city so as to prevent the branches of such trees from coming in contact with the wires, cables and appurtenances of the franchises, all trimming to be done under supervision and direction of the city and by and as the expense of the franchisee. (Ord. No. 257, Sec. 7.)

4.16.08 Rates The city of Ozark has specified and approved the following rates of the franchisee for installation of equipment and regular subscriber.

Connection Charges

Residential

First connection	One outlet	\$15.00
Extension outlets (at time of first connect) each		5.00

Commercial: Hotels, motels, restaurants, etc.

First connection	One outlet	15.00
Extension outlets (at time of first connect) each		5.00

Trailers

First connection	One outlet	25.00
Extension outlets (at time of first connect) each		5.00

Monthly Charges

One outlet	per month	6.00
Each extension	per month	1.50

Service Charge

Reconnect for non-payment	5.00
Reconnect on new occupancy	5.00
Service call due to fault of TV set	5.00
Extension connections after initial installation	
\$.50 per lineal foot of cable from original outlet, minimum charge	10.00
Move outlet or extension	10.00
(plus \$.50 per lineal foot of extra cable)	

Connection charges and rates charged by the Grantee shall at no time exceed the above without the consent of the city, however, the Grantee shall retain the right to lower or omit charges as may be necessary in the conduct of their business.

No increases in rates charges to the subscribers shall be made except as authorized by the city of Ozark and only after an appropriate public proceeding affording due process. (Ord. No. 257, Sec. 8.)

4.16.09 Complaints The city of Ozark directs the franchisee to make investigation of, and resolve, all complaints regarding the quality of service, equipment malfunctions, and similar matters within 48 hours, and that the franchisee shall maintain a local business office or agent for their purposes, and the Mayor shall be responsible to the City Council to insure compliance herewith. (Ord. No. 257, Sec. 9.)

4.16.10 Police power The franchisee shall, at all times during the existence of this franchise, be subject to all lawful exercise of the police power by the city, and to such reasonable regulations as the city shall hereafter by resolution or ordinance, provide. (Ord. No. 257, Sec. 10.)

4.16.11 Insurance The franchisee shall carry sufficient insurance against liability to property damage of not less than One Million Dollars (\$1,000,000.00) as to any one accident and not less than Three Million Dollars (\$3,000,000.00) as to any one accident as it may relate to damage to property and persons. Upon retaining such insurance, the franchisee shall submit to the city certificates from all companies insuring the franchisee is properly insured for all of his liability, and that no such insurance will be cancelled or changed except after thirty (30) days' notice to the city. (Ord. No. 257, Sec. 11.)

4.16.12 Stations Notwithstanding Part 76 provisions of the Rules and Regulations of the Federal Communications Commission, the franchisee shall provide cable television service from the following system:

KARK	Channel 4
KFSM	Channel 5
KATV	Channel 7
KTUL	Channel 8
KTHV	Channel 11
KAFT	Channel 13 ETV
KFPW	Channel 40
Weather Channel	Channel 9

The franchise shall also provide the right for the franchisee to add three new channels which includes KLMN Channel 24, and two (2) independent channels via satellite with an additional charge to the monthly rate not to exceed \$1.50 and this additional charge will become effective on the date the three new channels are added. (Amendment to Ord. No. 257.)

4.16.13 Franchise tax Beginning on January 1, 1981, Cebridge Acquisitions, LP, d/b/a Suddenlink Communications shall pay to the city of Ozark, Arkansas, each year a franchise tax in the amount equal to four percent (4%) of the gross subscription revenues from the Ozark Cablevision Company Television and Home Box Office Operation within the city of Ozark. Payment is to be made thirty (30) days after the end of each month. (Amendment to Ord. No. 257.)

4.16.14 Sale or merger Cebridge Acquisitions, LP, d/b/a Suddenlink Communications shall not sell, lease, sublet or transfer its system and privileges granted herein without approval of the city; however, said approval shall not be unreasonably withheld.

This ordinance, however, shall not prohibit the sale to or merger with any wholly-owned subsidiary corporation of TCA Cable TV, Inc. (Ord. No. 89-8, Sec. 3.)

4.16.15 FCC forms The Mayor is hereby authorized and directed to file two completed FCC Forms 328 by registered mail (not certified mail) with return receipt requested to:

Federal Communications Commission
Cable Franchising Authority Certification
P.O. Box 18539
Washington D.C. 20036

The Mayor is further directed to mail a completed copy of this Form 328 to our local cable operator at the address listed on the form by certified mail, return receipt requested, on the same day copies are mailed to the FCC. (Ord. No. 93-22, Secs. 1-.2)

CHAPTER 4.20

OCCUPATION TAX

Sections:

4.20.01	Privilege tax
4.20.02	License
4.20.03	Procurement
4.20.04	Application
4.20.05	False statements
4.20.06	Separate license
4.20.07	Fee not returnable
4.20.08	Transfer prohibited
4.20.09	Posting
4.20.10	Tax
4.20.11	Penalty

4.20.01 Privilege tax The conducting and carrying on of all trades, businesses, occupations, vocations, callings and professions, except those specifically exempted by the laws of the state of Arkansas, within the boundaries of the city of Ozark, is hereby declared to be a privilege, and each and every person, firm or corporation conducting or engaging in any such trade, business, occupation, vocation, calling or profession, shall apply for and pay for a license therefore in the amounts and procedural requirements as set out. (Ord. No. 94-14, Sec. 1.)

4.20.02 License It shall be unlawful for any person in the city to engage in, exercise, or pursue any line of business without first having obtained and paid for a city license therefore from the city Recorder/Treasurer; the amount of which licenses are hereby fixed in 4.20.10. However, any person, firm or corporation whose primary business location is outside the city limits, maintains no permanent business in Ozark, and who pays occupational license in another city, is exempt from this license. (Ord. No. 94-14, Sec. 2.)

4.20.03 Procurement Except as herein provided, all licenses issued under this ordinance shall become due on January 1st of each year. If not paid by January 31st, a penalty of twenty-five percent (25%) of the amount of the license fee provided will be assessed. If not paid by February 28th, a penalty of double the amount of the license fee provided will be assessed. Also, if it becomes necessary for the city Recorder/Treasurer or other officials to go to the business to collect, a Five Dollars (\$5.00) additional penalty will be imposed. All licenses shall be payable annually and except as herein provided no license shall be issued for a longer period of time than one (1) years. The first license fee due hereunder shall be due on January 1, 1995. (Ord. No. 94-14, Sec. 3.)

4.20.04 Application Any person desiring to engage in, pursue or carry on any of the occupations, callings, or businesses mentioned in this ordinance, shall apply to the city Recorder/Treasurer who shall collect from the applicant the license fee provided for herein, and the city Recorder/Treasurer shall issue to the applicant receipt and license certificate. (Ord. No. 94-14, Sec. 4.)

4.20.05 False statements It shall be unlawful for any person knowingly and willfully to make a false written or verbal statement in applying for a license under this ordinance for the purpose of defrauding the city, by which statement a license is procured for a less sum that is lawfully due hereunder. It shall likewise be unlawful for any person to fail or refuse to furnish the city Recorder/Treasurer all required information necessary to determine the amount of the annual occupational license fee in accordance with the provisions of this ordinance. (Ord. No. 94-14, Sec. 5.)

4.20.06 Separate license Any person engaged in two or more trades, callings, vocations, businesses or professions enumerated in this ordinance shall be required to take a license for each separate trade, business, vocation or profession. Provided however, if the two or more trades or businesses are being operated under the same Federal Tax I.D. Number and are located at the same business location, then only one license is required for all trades or businesses at that location. (Ord. No. 96-22, Sec. 1.)

4.20.07 Fee not returnable The license fee provided for in this ordinance, when paid for any period provided herein, shall not be returnable in case the licensee, for any reason, surrenders his license or discontinues his business, and any sum so paid shall not be returnable to any person. (Ord. No. 94-14, Sec. 7.)

4.20.08 Transfer prohibited No license issued under the provisions of this chapter shall be transferred from one person to another or from one business to another without authorization from the City Council. (Ord. No. 94-14, Sec. 8.)

4.20.09 Posting Each license procured under the provisions of this chapter shall be posted in a permanent place where the business covered thereby is carried on, and the holder thereof shall immediately show such license to any officer of the city, upon being requested to do so. (Ord. No. 94-14, Sec. 9.)

4.20.10 Tax For the privilege of engaging in, operating or carrying on the following businesses, trades, vocations, professions or callings in the city, a license tax of Twenty-Five Dollars (\$25.00) shall be paid each year. (Ord. No. 94-14, Sec. 10)

4.20.11 Penalty Any person, organization, firm, group or party failing to comply with this ordinance shall be guilty of a violation and upon conviction shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), together with costs of the proceeding. Each day said willful failure to comply continues constitutes a separate offense and may be prosecuted accordingly. (Ord. No. 2007-9, Sec. 1.)

CHAPTER 4.20

OCCUPATION TAX

Sections:

4.20.01	Privilege tax
4.20.02	License
4.20.03	Procurement
4.20.04	Application
4.20.05	False statements
4.20.06	Separate license
4.20.07	Fee not returnable
4.20.08	Transfer prohibited
4.20.09	Posting
4.20.10	Tax
4.20.11	Penalty

4.20.01 Privilege tax The conducting and carrying on of all trades, businesses, occupations, vocations, callings and professions, except those specifically exempted by the laws of the state of Arkansas, within the boundaries of the city of Ozark, is hereby declared to be a privilege, and each and every person, firm or corporation conducting or engaging in any such trade, business, occupation, vocation, calling or profession, shall apply for and pay for a license therefore in the amounts and procedural requirements as set out. (Ord. No. 94-14, Sec. 1.)

4.20.02 License It shall be unlawful for any person in the city to engage in, exercise, or pursue any line of business without first having obtained and paid for a city license therefore from the city Recorder/Treasurer; the amount of which licenses are hereby fixed in 4.20.10. However, any person, firm or corporation whose primary business location is outside the city limits, maintains no permanent business in Ozark, and who pays occupational license in another city, is exempt from this license. (Ord. No. 94-14, Sec. 2.)

4.20.03 Procurement Except as herein provided, all licenses issued under this ordinance shall become due on January 1st of each year. If not paid by January 31st, a penalty of twenty-five percent (25%) of the amount of the license fee provided will be assessed. If not paid by February 28th, a penalty of double the amount of the license fee provided will be assessed. Also, if it becomes necessary for the city Recorder/Treasurer or other officials to go to the business to collect, a Five Dollars (\$5.00) additional penalty will be imposed. All licenses shall be payable annually and except as herein provided no license shall be issued for a longer period of time than one (1) years. The first license fee due hereunder shall be due on January 1, 1995. (Ord. No. 94-14, Sec. 3.)

4.20.04 Application Any person desiring to engage in, pursue or carry on any of the occupations, callings, or businesses mentioned in this ordinance, shall apply to the city Recorder/Treasurer who shall collect from the applicant the license fee provided for herein, and the city Recorder/Treasurer shall issue to the applicant receipt and license certificate. (Ord. No. 94-14, Sec. 4.)

4.20.05 False statements It shall be unlawful for any person knowingly and willfully to make a false written or verbal statement in applying for a license under this ordinance for the purpose of defrauding the city, by which statement a license is procured for a less sum that is lawfully due hereunder. It shall likewise be unlawful for any person to fail or refuse to furnish the city Recorder/Treasurer all required information necessary to determine the amount of the annual occupational license fee in accordance with the provisions of this ordinance. (Ord. No. 94-14, Sec. 5.)

4.20.06 Separate license Any person engaged in two or more trades, callings, vocations, businesses or professions enumerated in this ordinance shall be required to take a license for each separate trade, business, vocation or profession. Provided however, if the two or more trades or businesses are being operated under the same Federal Tax I.D. Number and are located at the same business location, then only one license is required for all trades or businesses at that location. (Ord. No. 96-22, Sec. 1.)

4.20.07 Fee not returnable The license fee provided for in this ordinance, when paid for any period provided herein, shall not be returnable in case the licensee, for any reason, surrenders his license or discontinues his business, and any sum so paid shall not be returnable to any person. (Ord. No. 94-14, Sec. 7.)

4.20.08 Transfer prohibited No license issued under the provisions of this chapter shall be transferred from one person to another or from one business to another without authorization from the City Council. (Ord. No. 94-14, Sec. 8.)

4.20.09 Posting Each license procured under the provisions of this chapter shall be posted in a permanent place where the business covered thereby is carried on, and the holder thereof shall immediately show such license to any officer of the city, upon being requested to do so. (Ord. No. 94-14, Sec. 9.)

4.20.10 Tax For the privilege of engaging in, operating or carrying on the following businesses, trades, vocations, professions or callings in the city, a license tax of Twenty-Five Dollars (\$25.00) shall be paid each year. (Ord. No. 94-14, Sec. 10)

4.20.11 Penalty Any person, organization, firm, group or party failing to comply with this ordinance shall be guilty of a violation and upon conviction shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), together with costs of the proceeding. Each day said willful failure to comply continues constitutes a separate offense and may be prosecuted accordingly. (Ord. No. 2007-9, Sec. 1.)

CHAPTER 4.24

GARAGE SALES

Sections:

4.24.01	Permit
4.24.02	Charitable purpose
4.24.03	Issued
4.24.04	Sign
4.24.05	Fine

4.24.01 Permit It shall be unlawful for any person, firm, or corporation within the city of Ozark to engage in or carry on any garage sale, porch sale, patio sale, yard sale, or any similar type of sale unless that person, firm or corporation first obtain from the City Collector a permit to do so. The City Collector shall make and collect a charge of Five Dollars (\$5.00) per day for all permits for such sales, except as it hereinafter provided. (Ord. No. 242, Sec. 1.)

4.24.02 Charitable purpose The City Collector shall issue, without charge and without any type of time limitation, a permit for any such sale being conducted by a church or being conducted for any generally recognized charitable purpose. (Ord. No. 242, Sec. 1.)

4.24.03 Issued

- A. If any person, firm or corporation, other than a church or persons conducting a sale for a generally recognized charitable purpose, shall, at the time of applying for said permit, sign an affidavit stating that said sale shall be of personal property owned by said person, firm or corporation and that said property was not purchased for the purpose of resale, the City Collector shall issue, without charge, a permit for said sale to continue for a period of time no longer than three (3) days. (Ord. No. 242, Sec. 1.)
- B. It is the desire of the City Council that any person, firm or corporation conducting such garage sale, porch sale, patio sale, or yard sale be issued a permit only three (3) times per year, such year beginning the calendar year January 1, 1993. (Ord. No. 92-23, Sec. 2.)

4.24.04 Sign

- A. The yard sale operator, when receiving a permit to operate a yard sale within the city of Ozark shall sign a statement and shall be provided a copy of said statement setting forth the rules and regulations regarding the placement of yard sale signs within the city of Ozark.

- B. All yard sale signs must have language clearly delineated on same setting forth:
1. the date the sign is first placed at the location;
 2. the location at which the yard sale is to take place;
 3. the yard sale permit number.
- C. Yard sale signs shall not be attached to utility poles or government signage.
- D. All yard sale signs must be removed within twenty-four (24) hours of the ending time of the yard sale.
- E. No yard sale signs may be placed upon the private property of others unless express permission is obtained from the owner of such property. (Ord. No. 99-26, Sec. 1.)
- F. It shall be unlawful for the holder of a permit to post a sign advertising the permitted sale on any property other than property owned by the permittee. (Ord. No. 85-10, Sec. 1.)

4.24.05 Fine Any person, church, firm or corporation violating any provision of this ordinance by non-compliance shall be deemed guilty of misdemeanor and fine not less than Twenty-Five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00). Each day's violation constitutes a separate offense and is punishable as such. (Ord. No. 242, Sec. 1.)

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CHAPTER 4.28

PINNACLE TELECOMM.

Sections:

- 4.28.01 Franchise tax
- 4.28.02 Non-exclusive
- 4.28.03 Access

4.28.01 Franchise tax That Pinnacle Telecom, which is conducting or carrying on business in the city of Ozark, Arkansas, under a franchise permit shall pay an annual franchise tax based of the gross revenues received in the preceding year. (Ord. No. 2017-12, Sec. 1.)

4.28.02 Non-exclusive That said franchise tax shall be paid in lieu of all other taxes, franchise taxes, licenses, charges, fees or imposition except general or special ad valorem taxes that might be lawfully imposed by the city. (Ord. No. 2017-12, Sec. 2.)

4.28.03 Access Pinnacle Telecomm, as incident to the franchise tax shall have the right to previously agreed upon conditions to be granted access to areas to effectuate their service to the citizens of Ozark.

TITLE 5

HEALTH AND SANITATION

Chapters:

- 5.04 Maintenance of Real Property
- 5.08 Solid Waste Collection
- 5.12 Health Care Public Facilities Board

CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

Sections:

- 5.04.01 Purpose
- 5.04.02 Prohibited acts
- 5.04.03 Guidelines
- 5.04.04 Removal after disaster
- 5.04.05 Railroads
- 5.04.06 Inspection
- 5.04.07 Notice
- 5.04.08 Civil enforcement of ordinance
- 5.04.09 Criminal enforcement of ordinance
- 5.04.10 Enforcement of lien
- 5.04.11 Supplemental to codes

5.04.01 Purpose The purpose of this ordinance is to implement and enforce the police powers of the city for the abatement of dangerous, unsightly and unsanitary conditions constituting a public nuisance which may exist upon real property located within the city limits, and also to implement and enforce the police powers of the city to require, by condemnation, the repair or removal of houses, building and/or structures which, due to their dilapidated and unsafe condition, constitute a public nuisance. (Ord. No. 2001-15, Sec. 1.)

5.04.02 Prohibited acts

- A. It shall be unlawful for any property owner, or occupant of any real property located within the city of Ozark to fail or refuse to cut weeds, grass, or dead or dying trees, to fail or refuse to remove garbage, rubbish and other unsightly and

unsanitary articles and things from the real property, to fail or refuse to abate fire and flooding hazards, or to fail or refuse to fill up or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community.

- B. It shall be unlawful for any property owner, or occupant of any real property located within the city of Ozark to allow, either by permission or omission, the dumping or accumulation of any trash, litter, garbage, debris or refuse upon the real property by other parties either known or unknown or to fail and refuse to remove all trash, litter, garbage, debris or refuse which is unsightly or which may endanger public health.
- C. It shall be unlawful for any property owner, or occupant of real property located within the city of Ozark, Arkansas to use said real property for the open storage of any abandoned motor vehicle, or parts thereof including but not limited to truck beds, trailers, chassis and other parts thereof, refrigerators, stoves, glass, building material, building rubbish or similar items, to use such items as storage buildings, or to fail to refuse to remove such items from the property. For the purpose of this ordinance, an "abandoned motor vehicle" is defined as one that is in a state of disrepair and incapable of being moved under its own power and includes truck beds, trailers, chassis, and any and all parts thereof. However, this section shall not be in force as to a commercial enterprise duly licensed and permitted to carry on a business in the storage of such items on a tract property zoned for such business and complying with any and all other conditions required for the lawful functioning of such business. (Ord. No. 2009-14, Sec. 1.)
- D. It shall be unlawful for any property owner or occupant of any real property located within the city of Ozark to allow, either by permission or omission, any of the conditions set out in subparagraphs (a), (b), and (c) above, upon any alleys, utility casements, rights-of-way and/or easements (including ditches) adjoining the real property.
- E. It shall be unlawful for any owner to fail or refuse to repair, remove or raze any house, building and/or structure which has deteriorated to such a condition, or has been damaged to such an extent, as to be dilapidated, unsightly, unsafe, unsanitary, obnoxious, or to constitute a fire hazard or in other manner be detrimental to the public welfare to such a degree as to found and declared a nuisance by the city.
- F. It shall be unlawful for any owner and/or occupant to cause, create, permit or cause to occur within the city of Ozark, Arkansas, any nuisance, including but not limited to those listed above in this section, on property owned or occupied by any person and each day such nuisance is permitted to remain, after notice from

the city for the abatement thereof, shall subject the person or persons responsible for the non-abatement of such nuisance to punishment as provided by this ordinance. (Ord. No. 2001-15, Sec. 2.)

5.04.03 Guidelines Regarding the cutting and removal of weeds, grasses, and tress, owners and occupants of real property located within the city of Ozark, Arkansas, shall be governed by the following guidelines:

- A. Except as otherwise provided, all lands, whether or not platted and/or subdivided, which have never been cleared or developed and which remain in their natural state, including, but not limited to, undeveloped open spaces such as meadows or similar lands which can be used for grazing or forage, may be maintained in their undeveloped natural state, provided, however, that weeds, grasses, or trees must be cut or removed if such vegetation blocks pedestrian or vehicular vision or traffic.
- B. All property, except those described in subsection (A) above, shall be maintained so that weeds and grasses thereon shall not exceed twelve (12) inches in height.
- C. The owners and occupants of all property, except those described in subparagraph (A) above, shall maintain all unopened street rights-of-way, easements for streets, utility, drainage, walking, or other purposes, unopened alleys and opened alley, other than the portion of same used for vehicular traffic, which adjoin said owner or occupants' property so that weeds and grasses shall not exceed twelve (12) inches in height. If any such right-of-way, easement or alley is adjoined by the properties of two (2) property owners, then each owner or occupant shall maintain such right-of-way, easement or alley to the midpoint thereof.
- D. The owners or occupants of all lands shall remove or cause to be removed all dead or dying trees and dead parts of living trees from such lands when such dead or dying trees or dead parts of trees shall constitute a hazard to personal safety or property due to the imminent possibility of their falling upon or being blown upon public property or property of other owners, or when such trees, because of decay or disease, constitute a nuisance and/or imminent health threat to other trees located on public property or property of other owners.
- E. After the cutting of tall weeds, rank grasses, or other vegetation, if the resulting yard waste itself creates or constitutes a condition which is unsafe, unsanitary, dangerous, unsightly or a fire hazard, said yard waste shall also be required to be removed from the property. (Ord. No. 2001-15, Sec. 3.)

5.04.04 Removal after disaster If any property owner shall suffer the loss, either total or partial, of a house by fire or tornado, it shall be the duty of the Code Enforcement Officer to

immediately notify, in writing, the property owner to remove all debris for the lot. It shall be the duty of the property owner within thirty (30) days from receipt of such notice to remove all debris or refuse on said lot. The notice required under this section is separate from the notice required by 5.04.07. (Ord. No. 2001-15, Sec. 4.)

5.04.05 Railroads All railroad companies operating within the city limits of the city of Ozark, Arkansas, shall maintain their rights-of-way at or around any railroad crossing with a public street, alley or other public way free from weeds, grasses, trees, bushes, shrubs, and other growing vegetation which may obstruct the view of pedestrians and vehicle operators using the public ways, for a distance of one hundred (100) yards in all right-of-way directions from such railroad crossings. Further, all such railroad companies shall maintain their rights-of-way so that weeds and grasses thereon shall not exceed twelve (12) inches in height. (Ord. No. 2001-15, Sec. 5.)

5.04.06 Inspection No notice as described in 5.04.07 below, shall be issued to any owner or occupant until a thorough inspection of the condition of the relevant real property and/or structure has been conducted by the Code Enforcement Officer, or other designated representative of the Mayor, and that official (or officials) determined that the existing condition of the real property and/or structure constitutes a substantial health, fire, flooding, safety or aesthetic hazard or deterrent to the well-being of the inhabitants of the city. (Ord. No. 2001-15, Sec. 6.)

5.04.07 Notice

- A. Upon the determination that a property's or structure's condition is in violation of this ordinance, the Code Enforcement Officer, or other designated official, shall issue a clean-up notice upon the owner or occupant of properties found in violation of subsection (A), (B), (C), and (D) of 5.04.02 above; and upon the owner of structures found in violation of subsection (C) of 5.04.02 above. The Notice shall be in writing, signed by the Code Enforcement Officer, or other designated official, and delivered to the owner and/or occupant of the property. The Notice shall be delivered to the aforementioned parties in one (1) of the following two (2) methods:
1. By certified mail, return receipt requested, or
 2. By personal delivery by a city officer or employee, who may be but does not have, to be, an employee of the Police Department.

The Notice shall state the conditions on the subject real property or structure which are ordered abated and the Notice shall advise the deliverer that, if the conditions listed in the Notice have not been abated within seven (7) days, the city may proceed with a criminal charge pursuant to 5.04.08(B) below, and/or shall proceed according to the provisions of this ordinance and other valid legislative enactments to abate the listed conditions, and that the costs of such action shall be

charged to the owner of the subject property, and shall constitute a lien on such property and may be collected as are real property taxes.

- B. In case the owner of any lot, structure or other real property is unknown or the owner's whereabouts are not known or such owner is a non-resident of this state, then a copy of the written Notice referred to above shall be posted in a conspicuous place upon the premises. Further, the City Clerk shall make an affidavit setting out the facts as to the unknown address or whereabouts of the non-resident owner. After the execution of the affidavit by the City Clerk, service by publication, as now provided for by law against non-resident defendant, may be had upon the non-resident owner and an attorney ad litem shall be appointed to notify the non-resident owner by registered letter addressed to his last known place of residence if same can be found.
- C. A clean-up Notice issued to an owner or occupant for abatement of conditions set out in subsection (A), (B), (C), and (D) of 5.04.02 above shall remain in full force and effect for a period of twelve (12) months and shall be considered sufficient notice to said owner or occupant of and recurring violations occurring on that owner's or occupant's lot or other real property within that twelve (12) month period. Any further violations occurring within the twelve (12) month period on the owner's or occupant's lot or other real property upon which Notice has been served shall subject the owner or occupant to the penalties set out within this ordinance. (Ord. No. 2001-15, Sec. 7.)
- D. The Controlled Substances contaminated Property Clean-up Act codified at A.C.A. 8-7-1401, et seq., is hereby incorporated herein and made a part of this ordinance as if set out herein word for word and shall be enforced under the provisions of this ordinance. The penalty section contained therein under A.C.A. 8-7-1407 shall supercede any other penalty provision of this ordinance where applicable. (Ord. No. 2009-14, Sec. 1.)

5.04.08 Civil enforcement of ordinance

- A. Clean-up lots In the event the owner and/or occupant of any real property, who is given a Notice to abate a condition or conditions pursuant to subsections (a), (b), (C), and (D), of 5.04.02 above, shall fail or refuse to so comply with such Notice within the time specified therein, the Mayor may authorize city staff, or private persons hired for that purpose, to enter upon the property and have said weeds, rank grass, or other vegetation cut and removed, or eliminate any unsanitary and unsightly condition, and the cost thereof, as determined according to the procedures set out in this ordinance, shall be charged against said premises and shall constitute a lien thereon.

- B. Condemnation of structures In the event the owner of any real property, who is given a Notice to abate a condition pursuant to subsection (C) of 5.04.02 above, shall fail or refuse to so comply with such Notice within the time specified therein, the Code Enforcement Officer shall initiate proceedings to have the house, building and/or structure condemned.
1. The property owner shall be given a written Notice of Condemnation Proceedings, signed by the Code Enforcement Officer, which shall give an adequate description of the house, building and/or structure; the name or names, if known, or the owner or owners thereof, shall set forth the reason or reasons said house, building, and/or structure is considered in non-compliance with this ordinance, the legal consequences of failing or refusing to abate the offensive condition, and shall state the date, time and place of the City Council meeting at which the issue of the condemnations of the property shall be addressed. The Notice of Condemnation Proceedings shall be delivered to the owner or owners in one (1) of the following two (2) methods:
 - a. By certified mail, return receipt requested, or
 - b. By personal delivery by a city officer or employee, who may be but does not have, to be, an employee of the Police Department.
 2. In case the owner of any lot, structure or other real property is unknown or the owner's whereabouts are not known or such owner is a non-resident of this state, then a copy of the written Notice of Condemnation Proceedings referred to above shall be posted in a conspicuous place upon the premises. Further, the City Clerk shall make an affidavit setting out the facts as to the unknown address or whereabouts of the non-resident owner. After the execution of the affidavit by the City Clerk, service by publication, as now provided for by law against non-resident defendant, may be had upon the non-resident owner and an attorney ad litem shall be appointed to notify the non-resident owner by registered letter addressed to his last known place of residence if same can be found. If appropriate, at the option of the city, the timing and procedure used for service of the initial clean-up Notice and the Notice of Condemnation Proceedings may be combined for the purpose of utilizing the affidavit of the City Clerk, the service by publication and the attorney ad litem so that such Notices may be served upon the non-resident owner or owners simultaneously.
 3. At the City Council meeting specified in the Notice of Condemnation Proceedings, the City Council shall make a determination as to whether the condition of the said house, building, and/or structure is in compliance with the provisions of this ordinance or whether the said house, building and/or structure constitutes a nuisance. In the even the City Council

determines the house, building, and/or structure is a nuisance, the City Council shall pass a resolution declaring the said house, building, and/or structure to be a nuisance and condemning the property. The resolution condemning any house, building, and/or structure which constitutes a nuisance shall include in said resolution and adequate description of the house, building, and/or structure the name of names, if known, of the owner or owners thereof; shall set forth the reason or reasons said house, building, and/or structure is or has been condemned as a nuisance.

4. After a house, building, and/or structure has been found and declares to be a nuisance and condemned by resolution as herein provided, a true or certified copy of said resolution shall be mailed to the owner or owners thereof if the whereabouts of said owner or owners thereof be known or their last known address be known, and a copy thereof shall be posted at a conspicuous place on said house, building, and/or structure. Provided, that if the owner or owners of said house, building, and/or structure be unknown or, if his or their whereabouts or last known address be unknown, the posting of the copy of said resolution as hereinabove provided will suffice as notice.
5. If the house, building, and/or structure constituting a nuisance has not been repaired, torn down, or removed, or said nuisance otherwise abated, within thirty (30) days after posting the true copy of the resolution at a conspicuous place on said house, building, and/or structure as provided above, then the said house, building, and/or structure may be torn down and/or removed by the city or its authorized representative, and the cost thereof, as determined according to the procedures set out in this ordinance, shall be charged against said premises and shall constitute a lien thereon.
6. If the house, building, and/or structure constituting a nuisance has not been repaired, torn down, or removed, or said nuisance otherwise abated, within thirty (30) days after posting the true copy of the resolution at a conspicuous place on said house, building, and/or structure as provided above, then the said house, building, and/or structure may be torn down and/or removed by the city or its authorized representative, and the cost thereof, as determined according to the procedures set out in this ordinance, shall be charged against said premises and shall constitute a lien thereon.
7. The city employee, or any other person or persons, designated by the Mayor to tear down and remove and such house, building, and/or structure constituting a nuisance will insure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and in

that end may, if the same have a substantial value, sell said house, building, and/or structure or any saleable material thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the city, to insure its removal and the abatement of the nuisance.

8. All the proceeds of the sale of any such house, building, and/or structure, or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this ordinance shall be paid by the person or persons collecting the same, the City Clerk. If any such house, building, and/or structure, or the saleable materials thereof, be sold for an amount which exceeds all cost incidental to the abatement of the nuisance (including the cleaning up of the premises) by the city, plus any fine or fines imposed, the balance thereof will be returned by the City Clerk to the former owner or owners of such house, building, and/or structure constituting the nuisance. (Ord. No. 2001-15, Sec. 8.)

5.04.09 Criminal enforcement of ordinance

- A. In addition to the civil enforcement procedures set out herein, in the event the owner and/or occupant of any real property, who is given a Notice to abate a condition pursuant to provisions of this ordinance, shall fail or refuse to so comply with such Notice within the period of time established for compliance by such Notice, said owner and/or occupant may be issued a citations by the Code Enforcement Officer to appear in the Ozark District Court and upon conviction thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a minimum of One Hundred Dollars (\$100.00) for the first offense, plus costs, and for each subsequent offense shall be fined a minimum of Two Hundred Fifty Dollars (\$250.00), plus costs. (Ord. No. 2007-3, Sec. 1.)
- B. In the event the owner and/or occupant on any real property which is in violation of the provisions of this ordinance, shall fail or refuse to abate the offensive condition or conditions and/or fail or refuse to abide by the orders of the District Court, the city may also take such civil actions as are provided under subsection (A) of this section. (Ord. No. 2001-15, Sec. 8.)

5.04.10 Enforcement of lien If the city has incurred any costs in the clean-up of a lot or has incurred any net costs in the removal of any house, building, and/or structure, the city shall have a lien upon said property as provided by A.C.A. 14-51-904. The lien imposed for either occurrence may be enforced in either one of the following manners:

- A. The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in the Circuit Court; or,

- B. The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then after publication of notice of such hearing in a newspaper having a bona fide circulation in Franklin County, Arkansas, for one (1) insertion per week for four (4) consecutive weeks. The determination of the City Council is subject to appeal by the property owner or owners in the Circuit Court. The amount so determined at said hearing, plus ten percent (10%) penalty for collection, shall be certified by the City Council to the Franklin County Tax Collector, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent (3%) thereof, when so collected shall be paid to the city of Ozark, Arkansas. (Ord. No. 2001-15, Sec. 9.)

5.04.11 Supplemental to codes The nuisance abatement regulations and enforcement procedures set out within this ordinance are supplemental to any other public welfare technical codes, including but not limited to, building, fire, life safety, plumbing, electrical and mechanical codes, and the enforcement provisions of such codes. (Ord. No. 2001-15, Sec. 10)

CHAPTER 5.08

SOLID WASTE COLLECTION

Sections:

- | | |
|---------|--------------------|
| 5.08.01 | Contract |
| 5.08.02 | Contract with city |
| 5.08.03 | Required |
| 5.08.04 | Businesses |
| 5.08.05 | Violation |
| 5.08.06 | Fine |
| 5.08.07 | Rates |
| 5.08.08 | Dumpsters |

5.08.01 Contracts

- A. The city of Ozark has the right under Arkansas law to enter into exclusive franchise agreements for commercial and industrial garbage and waste collection, as well as residential garbage collection.
- B. It is necessary to insure an accurate and fair bidding process for all franchise agreements to have full disclosure of any and all existing independent contracts

for the removal of commercial or industrial waste that the public health and welfare dictates such disclosure.

- C. All such independent contracts entered into prior to or during a period when no exclusive franchise agreement is in effect shall be recorded with the City Clerk within forty-eight (48) hours of the next regular business day after execution therefore, and shall be subject to the approval of the Mayor and a majority of the Sanitation Committee.
- D. The failure to approve said contract by the Mayor and a majority of the Sanitation Committee may be appealed to the full City Council. A majority vote of the entire City Council will be sufficient to override the decision of the Sanitation Committee. Failure to record the contract or obtain approval as set out hereinabove shall render said contract void and of no effect. (Ord. No. 2008-1, Secs. 1-4.)

5.08.02 Contract with city The city of Ozark has entered into a contract for the collection and disposal of solid waste within the corporate limits of the city of Ozark, Arkansas. (Ord. No. 2008-8, Sec. 1.)

5.08.03 Required Trash pick-up shall be required for each residential water meter within the corporate limits of the city of Ozark. (Ord. No. 2008-8, Sec. 2.)

5.08.04 Businesses Each business water meter shall be required to have one of two options of either curbside trash pick-up or a dumpster, as each need may arise. (Ord. No. 2008-8, Sec. 3.)

5.08.05 Violation It is hereby declared unlawful for any person, firm, corporation, individual association or agent of any of the foregoing, anywhere within the city of Ozark, Arkansas, to violate the provisions of the contract which the city has signed with D.C. Trash, Inc., or use said collection and disposal service and not comply with the terms of the ordinance as to payment for said services. (Ord. No. 2008-8, Sec. 4.)

5.08.06 Fine Any person, firm, corporation, individual association, or agent of any of them, who violates any of the provisions of this ordinance or any provisions of the contract which the city has signed with D.C. Trash, Inc. shall be deemed guilty of a misdemeanor and upon issuance of a citation and conviction shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), plus costs, and if such violations be continuing, each day of a violation shall be deemed a separate offense. (Ord. No. 2008-8, Sec. 5.)

5.08.07 Rates The franchise agreement is approved and the rates and fees as set out therein are adopted, specifically as follows:

- A. \$12.05 per home for residential waste
\$17.50 for outside city water customers.

This charge is based upon 1,362 homes in the city.

Commercial Garbage Disposal Rates

The following matrix lists the commercial account rates for collection.

Size	1x week	2x week	3x week	4x week	5x week
2 yard	60.00	111.00	160.00	210.00	260.00
3 yard	80.00	150.00	220.00	290.00	360.00
4 yard	100.00	190.00	280.00	370.00	460.00
6 yard	125.00	245.00	365.00	485.00	605.00
8 yard	150.00	290.00	430.00	570.00	710.00
96 gal. cart	17.00	34.00	51.00	68.00	85.00
Hand coll.	15.00	30.00	45.00	60.00	75.00

Industrial Garbage Collection Rates

Size	Charge per service
Open top haul	\$150.00
Compactor haul	\$175.00
Compactor rental	\$400.00 per month
Container rental	\$1.00 per day
Disposal rate	\$42.00 per ton

- B. Upon the anniversary date of the contract, the fees paid by the city to the contractor may be negotiated with the city provided there is more than a three percent (3%) increase in the U.S. Department of Labor – Consumer Price Index (CPI). The maximum increase shall be no more than three percent (3%) each year. However, in no event will the cumulative total of CPI adjustments exceed fifteen percent (15%) over the term of the agreement. The contractor may request a rate increase due to significant changes in disposal costs of fuel costs, and as a result of changes in rules and regulations mandated by the federal, state or local governments.
- C. The Gate Rates at the Ozark Transfer Station are as follows: See attachment hereto which is incorporated herein and made a part of this ordinance. (Ord. No. 2008-5, Sec. 2.)

5.08.08 Dumpsters

- A. No person, company, partnership, property owner, or entity shall place trash dumpsters or large trash canisters upon:
1. sidewalks within the city limits;
 2. state or city owned streets or highways; and
 3. in front of commercial or industrial businesses.
- B. If a person, company, partnerships, property owner, or entity has no other feasible place to locate the trash dumpster or large metal canister other than in a location prohibited by section (A) above, then that person, company, partnership, property owner, or entity shall be allowed to place the dumpster or trash canister upon one of the prohibited locations mentioned above, but only if prior approval is obtained from the Mayor of the city of Ozark, Arkansas.
- C. Any person, corporation, partnership, or firm found to be in violation of this ordinance or any part hereof shall be guilty of a misdemeanor and subject to a fine of Fifty Dollars (\$50.00). (Ord. No. 95-20, Secs. 1-3.)

CHAPTER 5.12

HEALTH CARE PUBLIC FACILITIES BOARD

Sections:

- | | |
|---------|-----------------------|
| 5.12.01 | Creation |
| 5.12.02 | Members |
| 5.12.03 | Powers |
| 5.12.04 | Issuance of bonds |
| 5.12.05 | Organization; reports |

5.12.01 Creation Pursuant to the authority of the act there is hereby created and established the "Ozark, Arkansas Health Care Public Facilities Board," hereinafter referred to as the "Board" with authority as hereinafter provided to accomplish, finance, contract concerning and deal with or dispose of health care facilities, and to otherwise act in such a manner as may be permitted by the Act to provide adequate health care facilities within or near the city. (Ord. No. 82-3, Sec. 2.)

5.12.02 Members The Board shall consist of five (5) persons from the city of Ozark, Arkansas, designated by the City Council and appointed by the Mayor of the city to serve terms of one, two, three, four and five years, respectively. Said person shall be able to succeed themselves on said Board and their respective names and terms of office shall be:

Mary Yates	One year
Winston Hardin	Two years
Otto Haberer	Three years
Ann Wiggins	Four years
David Gibbons	Five years

Said Board members shall receive no compensation for their services, but may be reimbursed for their expenses incurred in the performance of their duty. Said Board shall elect a chairman from among its members, a Vice-Chairman and a Secretary/Treasurer. The Board shall meet on call of its Chairman and the Secretary/Treasurer shall keep a record of each meeting; each meeting shall be a public meeting. (Ord. No. 82-3, Sec. 3.)

5.12.03 Powers The Board is authorized and empowered to exercise all the rights, powers and privileges accorded such Boards under the Act for the purpose of establishing, constructing, reconstructing, equipping, improving or otherwise assisting the development of Health Care Facilities as defined in Section 3(g) of the Act. (Ord. No. 83-6, Sec. 1.)

5.12.04 Issuance of bonds The Board is authorized to issue revenue bonds, from time to time, under the terms, conditions and procedures set forth in the Act, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the Board is created as the same relates to the providing of adequate health care facilities. Such revenue bonds shall be obligations only of the Board and shall not constitute an indebtedness for which the faith and credit of the city or any of its revenues are pledged, and the principal and interest on the bonds shall be payable from and secured by a pledge of revenues derived from the health care facilities financed, in whole or in part, from bond proceeds and as authorized by, and in accordance with the provisions of, the Act, together with such other collateral as may properly be pledged under the Act and as the Board in its discretion may determine.

The Mayor is authorized to approve the issuance of any revenue bonds that the Board authorizes pursuant to resolution. The approval of the Mayor shall be in his discretion but in no event shall the Mayor approve the issuance of any such bonds until the Mayor has conducted a public hearing on the bond issue or has received a written statement from the Chairman of the Board stating that the bonds had been authorized by the Board subsequent to a public hearing and that the resolution authorizing the issuance of the bonds was duly and properly adopted by the Board. (Ord. No. 83-6, Sec. 2-3.)

5.12.05 Organization; reports As soon as practicable after the adoption of this ordinance, the Board shall meet and elect such officers as set out above. The Board may adopt by-laws and other rules and regulations as shall be necessary for the conduct of its business and consistent with the provisions of the Act. The Board shall cause to be filed with the City Clerk of the city an annual report as described in the Act. Said Board shall have a seal and may incorporate it if said Board deems it desirable. (Ord. No. 83-6, Sec. 6.)

TITLE 6**ANIMALS AND FOWL****Chapters:**

- 6.04 Dogs and Cats
- 6.08 Hooved Animals
- 6.12 Vicious Animals

CHAPTER 6.04**DOGS AND CATS****Sections:**

- 6.04.01 Definitions
- 6.04.02 Vicious dogs or cats
- 6.04.03 Number
- 6.04.04 Vaccination
- 6.04.05 Confinement
- 6.04.06 Running at large
- 6.04.07 Impounding of dogs and cats
- 6.04.08 Rabies control
- 6.04.09 Inspection and confinement
- 6.04.10 Excessive barking and howling
- 6.04.11 Cleanliness of pen and premises
- 6.04.12 Notice of offenses and violations
- 6.04.13 Investigation
- 6.04.14 Ban or interference
- 6.04.15 Diseased animals
- 6.04.16 Releasing animals
- 6.04.17 Cruelty to animals
- 6.04.18 Hogs, goats, and sheep
- 6.04.19 Wild and exotic animals

City means the city of Ozark, Arkansas.

Dogs or cats include animals of all ages, both female and male, which are members of the dog or cat family.

Dog or cat tags visible tag, showing proof of payment of Five Dollars (\$5.00) for annual dog or cat permit.

Gender The masculine gender includes the feminine and neuter.

Muzzle when required by this ordinance, shall be of appropriate material with sufficient strength to restrain the dog or cat from biting, and no muzzle employed shall be made from any material or maintained on the dog or cat in any manner so as to cut or injure the dog or cat.

Owner means every person owning, keeping or harboring a dog or a cat or more than one dog or more than one cat.

Person includes a corporation, partnership or other legal entity.

Vaccination means infection of any vaccine for rabies approved by the state veterinarian and administered by a licensed veterinarian or agent of the Health Office.

Vicious dog or cat means any dog or cat which has a disposition to bite humans and any dog or cat which has bitten or attempted to bite any person within the six months immediately past; however, the fact that a dog or cat has bitten or attempted to bite some person shall not constitute the dog or cat a vicious dog or cat within the sense of this ordinance. (Ord. No. 2005-17, Sec. 1.)

6.04.02 Vicious dogs or cats It shall be unlawful for any person to keep within the corporate limits of the city of Ozark any vicious dog or cat unless such dog or cat is muzzled or confined to a pen or tied in such a manner that he cannot bite mail carrier, delivery men or other licensees or invitees coming onto the premises where said dog or cat is kept. (Ord. No. 2005-17, Sec. 2.)

6.04.03 Number It shall be unlawful for any person or household to own, keep or harbor more than three (3) dogs or cats over six (6) months old within corporate limits of the city, except that this provision shall not apply to proprietors of dog and cat hospitals and veterinarians when such dogs or cats are kept upon premises used by such dog or cat hospitals and veterinarians as their normal place of business. The keeping of more than three (3) dogs or cats on the premises of the owner shall be prima facie evidence of violation of this section, and the burden of proof shall be on the owner to show ages of such dogs or cats. (Ord. No. 2005-17, Sec. 3.)

6.04.04 Vaccination No person shall own, keep or harbor any dog or cat, six (6) months of age or older, within the corporate limits of the city unless such dog or cat is effectively immunized against rabies by vaccination. Every owner of a dog or cat six (6) months of age or older shall cause such dog or cat to be vaccinated during the period January 1 to May 31, inclusive. Every owner is required to secure written proof his dog or cat is vaccinated, and to present proof when buying a dog or cat tag. One tag must be purchased for each dog or cat, and the tag or permit fee shall be paid to the City Clerk on or before June 1 of each year. Before a dog or cat tag may be obtained, proof of vaccination for rabies as required in 6.04.04 herein below shall be presented to the City Clerk. If the owner of the dog or cat obtains the rabies vaccination for his/her pet from a local reporting veterinarian, then no proof need be presented. However, if the vaccination is made by a non-recording veterinarian, the owner of the animal must present proof of vaccination. (Ord. No. 2005-17, Sec. 4.)

6.04.05 Confinement

- A. No person, firm, partnership, or corporation owning, keeping or harboring a dog or dogs, whether vaccinated or unvaccinated, licensed or unlicensed, shall allow such dog or dogs, to run at large within the corporate limits of the city of Ozark.
- B. Any person owning, possessing or keeping a dog or cat within the corporate limits of the city, shall confine such dog or cat within the adequate fence or enclosure, or within a house, garage or other building, or shall confine such dog or cat by a leash affixed to the dog's or cat's collar and attached to some substantial stationary object adequate to prevent the dog or cat from running at large. (Ord. No. 2005-17, Sec. 5.)

6.04.06 Running at large Any dog found in the city upon which the applicable tax as herein provided for has not been paid, or any dog found running at large, shall be taken up by said city and disposed of as hereinafter provided, and any dog found running at large in violation of any provision of this article shall be taken up by the city of Ozark and disposed of as hereinafter provided. (Ord. No. 2005-17, Sec. 6.)

6.04.07 Impounding of dogs and cats

- A. The Animal Control worker(s) of the city shall take into custody any dog found at large without correct or current tags in the city and shall impound such dog or cat in the city pound or such other place as such Animal Control worker(s) may designate for the purpose of impoundment. Any such impounded dog or cat shall be held for a period of seven (7) days.
- B. At the end of which time the dog or cat shall be destroyed unless custody of the dog or cat is released prior thereto under the following conditions: During the first five (5) days of such impoundment the animal control worker(s) of the city shall make a diligent effort to determine the owner of such dog or cat and notify

him of such impoundment, provided that prior to destroying any dog or cat which carries the owner's address, the municipality shall give the owner at least five (5) days' notice by certified letter of the date of the proposed destruction of the animal. If the owner of such dog or cat fails or refuses to claim and repossess the dog or cat by payment of the proper fees as prescribed herein within the first five (5) days of such impoundment, then the Animal Control worker(s) of the city may deliver custody and possession of such dog or cat to any person other than the owner upon the payment of the fee as prescribed herein between the fifth day of said impoundment and the seventh day of said impoundment.

- C. Any person owning, possessing, or keeping a dog or cat which has been allowed to run at large without proper tags and which has been impounded may claim and retrieve such dog or cat from the city pound by payment of a fee of Five Dollars (\$5.00) if the dog or cat has been vaccinated within the year next preceding such impoundment, or by payment of a fee of Ten Dollars (\$10.00) in the event the dog or cat has not been vaccinated within one (1) year preceding the impoundment, in addition to all taxes and impounding fees due thereon being paid in full. The burden of proof as to vaccination shall be upon the party attempting to claim the dog or cat from the Animal Control worker(s) of the city. Any person claiming an unvaccinated dog or cat shall, after payment of the fee assessed herein and prior to the release of the dog or cat, show proof the dog or cat has been vaccinated if the animal is released to him. The Animal Control worker(s) shall keep such statements in a safe place, and should such statement be signed and a dog or cat be again impounded, and not vaccinated as promised, the animal control worker(s) of the city, prior to releasing the dog, shall vaccinate said animal and shall require the vaccination fee in addition to a fee of One Hundred Dollars (\$100.00) to be paid by the person claiming the dog or cat before the dog or cat shall be released to the person claiming same. Upon each subsequent impoundment of such dog or cat, the same not having been vaccinated annually, an additional fee of One Hundred Dollars (\$100.00) shall be assessed. (Ord. No. 2005-17, Sec. 7.)

6.04.08 Rabies control Any dog or cat having rabies, or symptoms thereof, or suspected of having rabies, or which has been exposed to rabies, shall be immediately released by the owner or custodian of such dog or cat to the police or Animal Control workers of the city for disposal or confinement in the city pound or in a veterinary hospital approved by the city. Such dog or cat shall be immediately and securely confined by the attachment of a chain of good quality, and kept under the supervision of the Animal Control workers for a period of thirty (30) days or for a longer period of time if in the opinion of the county health officer additional confinement is determined necessary. (Ord. No. 2005-17, Sec. 7.)

6.04.09 Inspection and confinement When any dog or cat has bitten or scratched or otherwise attacked a person, such person or anyone having knowledge of said incident shall immediately notify the Chief of Police, County Health Officer or Animal Control worker of the

city, and such dog or cat shall be confined in the city pound or at a veterinary hospital for a period of ten (10) days in such a place that no person or animal may be bitten by it; and such dog or cat shall, during such period of confinement, be subject to inspection by the County Health Officer, and Animal Control worker of the city or a licensed veterinarian. (Ord. No. 2005-17, Sec. 9.)

6.04.10 Excessive barking and howling It shall be unlawful for any person to keep on his premises, or under his control, any dog or cats which by loud and frequent barking and howling shall disturb the peace and quiet of any person who may reside within reasonable proximity of the place where such dog or cat is kept after a complaint to police officer or City Hall. (Ord. No. 2005-17, Sec. 10.)

6.04.11 Cleanliness of pen and premises It shall be unlawful for any person keeping or harboring any dog or cat to fail to keep the premises where such dog is kept free from offensive odors to the extent that such odors are disturbing any person residing within reasonable proximity of said premises; it shall be unlawful to allow premises where any dog or cat is kept to become unclean and a threat to the public health by failing to diligently and systematically remove all animal waste from the premises. (Ord. No. 2005-17, Sec. 11.)

6.04.12 Notice of offenses and violations The City Police Department, County Health Officer, and Animal Control worker of the city, or other persons employed by the city are authorized, for violation of any portion of this ordinance to give to the offender a notice to appear in the District Court of the city. Such notice to appear shall state the name and address of the violator and the date of the violation; shall contain a statement of the nature of the violation, and shall be signed by the person having knowledge of such violation, and who is an official or an employee of the city and who is within the category mentioned above. The notice shall contain a printed statement in which the violator promises to appear in the District Court without issuance of any warrant or other process and such statement is to be signed by the violator. Upon failure to sign the agreement or to appear, the officer or employee shall cite that person to appear in District Court. Upon the violator's signing the agreement to appear and his making the appearance set out in the notice, no warrant shall be issued for the arrest of the violator. (Ord. No. 2005-17, Sec. 12.)

6.04.13 Investigation For the purpose of discharging the duties imposed by this ordinance and to enforce its provisions, any Animal Control worker of the city of the police officer is empowered to inquire at the residence at which a dog or cat is kept or harbored and request to see such dog or cat and upon a written complaint that a dog or cat is kept in a cruel or inhumane manner, such animal work of police officer may investigate and if deemed necessary, take possession thereof, when it reasonably appears that the dog or cat required humane treatment; to enter any residence without permission, a warrant must be secured from the District Court upon showing of reasonable cause for such warrant. (Ord. No. 2005-17, Sec. 13.)

6.04.14 Ban or interference No person shall interfere with, hinder, or molest any member of the city Police Department, the County Health Officer or any Animal Control worker of the city in the performance of any duties undertaken by him pursuant to this ordinance, or seek to release any dog or cat in the custody of any city official or employee except as herein provided. (Ord. No. 2005-17, Sec. 14.)

6.04.15 Disease animals No person shall be allowed to transport into this city any animal affected with a contagious disease. (Ord. No. 2005-17, Sec. 15.)

6.04.16 Releasing animals It shall be unlawful for any person to knowingly release any animal in any public place within the corporate limits of the city. (Ord. No. 2005-17, Sec. 16.)

6.04.17 Cruelty to animals If any person shall drive, overload, torture, torment, deprive of necessary sustenance or cruelty beat or needlessly mutilate or kill any animal, he shall be guilty of a misdemeanor. (Ord. No. 2005-17, Sec. 17.)

6.04.18 Hogs, goats, and sheep

- A. It shall be unlawful for any person to keep any hogs, goats, or sheep within the city or to permit any such animals to run at large within the city, except when in transit, they may be kept for a period not to exceed twenty-four (24) hours in an established stockyard as provided in Section (C) below.
- B. It shall be unlawful for any person within the city limits to maintain skunks, raccoons, or rabbits as pets.
- C. Stockyard
 - 1. A permit valid for a period of one (1) year may be issued to keep goats and sheep within the corporate limits of the city where they are maintained on an enclosed pasture containing one (1) acre for each animal and upon fulfilling the requirements herein. Each permit is for one (1) goat or one (1) sheep and non-transferable to another animal.
 - 2. An applicant must fill out an application for the permit specifying the name of the applicant, a phone number the applicant may be reached at during the day, the address the animal(s) to be kept, the amount of property owned or kept by the applicant where the animal(s) will be located, the period of time the animal(s) will be kept on the property, that the property containing the animal(s) is enclosed, and the names and addresses of abutting property owners. Said application shall be filed with the City Clerk's office. The applicant must submit Five Dollars (\$5.00) to the Clerk upon tendering the application to cover administrative costs associated with issuing the permit.

3. The keeping of sheep and goat in enclosures as herein provided within the limits of the city shall be under the supervision and control of the proper law enforcement official. Should any of the enclosures become harbors for breeding flies, mosquitoes, and rats, or should they become unsanitary, obnoxious, unhealthful and/or discomforting to any of the citizens of the city because of conditions created by keeping of said animals, the proper law enforcement official, upon investigating and finding any such conditions to exist, shall serve written notice on the owners or keepers of the premises as to the conditions thereof by delivering a copy of the notice.
4. To the owner or keeper, or by posting same in a conspicuous place on the premises, and if within five (5) days after service of notice said owner or keeper has not corrected the conditions, the permit shall be immediately revoked. Said owner or keeper shall not apply for another permit for a period of one (1) year after said revocation.
5. Said permit shall expire after a period of one (1) year from its date of issuance. A new permit may be applied for and issued after thirty (30) days prior to the expiration date of a permit under the guidelines set out herein. (Ord. No. 2005-17, Sec. 18.)

6.04.19 Wild and exotic animals

- A. No persons shall keep or permit to be kept on his premises any wild, exotic or dangerous animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, circuses, veterinary clinic or hospital, or facility for educated or scientific purposes, however, such parks exhibitions and facilities shall use protective devices adequate to prevent such animals from escaping or injuring the public.
- B. No person shall keep or permit to be kept any wild, exotic or dangerous animal as a pet.
- C. It shall be unlawful for any person owning or having control of any chickens, turkeys, or other fowl to allow the same to run at large within the city.
- D. Wild, exotic or dangerous animal means any animal which is not commonly domesticated, or which is not native to North America, or which, irrespective of geographical origin, is of a wild or predatory nature, or any other animal which because of its size, growth, propensity, vicious nature or other characteristics, would constitute an unreasonable danger to human life, health or property if not kept, maintained or confined in a safe and secure manner, including those animals

which, as a result of their nature or wild condition, cannot be vaccinated effectively for rabies.

- E. Wild, exotic or dangerous animals shall include, but not limited to, alligators and crocodiles, monkeys and other non-human primates, raccoons, skunks, porcupines, wolf, fox coyote, bears, venomous snakes and lizards, venomous fish and piranha, weasels, wolverines, ferrets, badgers, cheetahs, cougars, leopards, lions, lynx, panthers, mountain lions, tigers, wild cats, bob cats, birds of prey, and fighting cocks and fighting game birds. (Ord. No. 2005-17, Sec. 19.)

CHAPTER 6.08

HOOVED ANIMALS

Sections:

6.08.01	Maintaining
6.08.02	Pasture land
6.08.03	Fine

6.08.01 Maintaining No person, corporation, partnership, or other legal entity shall raise, possess, house, maintain, or confine any hooved animal within the city limits of the city of Ozark, Arkansas, if less than one (1) acre of pasture land is available for the hooved animal or animals to roan and graze. (Ord. No. 98-2, Sec. 1.)

6.08.02 Pasture land The one (1) acre of pasture land as required in 6.08.01 shall include only pasture land containing grass for grazing, and shall exclude all buildings, structures, or residential yards. Thus, there must be at a minimum, one (1) acre of open pasture land before a hooved animal may be raised, grown, or confined within the city limits of the city of Ozark, Arkansas. (Ord. No. 98-2, Sec. 2.)

6.08.03 Fine Any person violating this ordinance shall be guilty of a misdemeanor and shall be fined no less than Ten Dollars (\$10.00) nor more than Twenty-Five Dollars (\$25.00). Each day that a violation of this ordinance occurs is a separate offense. (Ord. No. 98-2, Sec. 3.)

CHAPTER 6.08**HOOVED ANIMALS****Sections:**

- | | |
|---------|--------------|
| 6.08.01 | Maintaining |
| 6.08.02 | Pasture land |
| 6.08.03 | Fine |

6.08.01 Maintaining No person, corporation, partnership, or other legal entity shall raise, possess, house, maintain, or confine any hooved animal within the city limits of the city of Ozark, Arkansas, if less than one (1) acre of pasture land is available for the hooved animal or animals to roan and graze. (Ord. No. 98-2, Sec. 1.)

6.08.02 Pasture land The one (1) acre of pasture land as required in 6.08.01 shall include only pasture land containing grass for grazing, and shall exclude all buildings, structures, or residential yards. Thus, there must be at a minimum, one (1) acre of open pasture land before a hooved animal may be raised, grown, or confined within the city limits of the city of Ozark, Arkansas. (Ord. No. 98-2, Sec. 2.)

6.08.03 Fine Any person violating this ordinance shall be guilty of a misdemeanor and shall be fined no less than Ten Dollars (\$10.00) nor more than Twenty-Five Dollars (\$25.00). Each day that a violation of this ordinance occurs is a separate offense. (Ord. No. 98-2, Sec. 3.)

CHAPTER 6.12**VICIOUS ANIMALS****Sections:**

- | | |
|---------|---------------------|
| 6.12.01 | Definitions |
| 6.12.02 | Procedures |
| 6.12.03 | Obligation of owner |
| 6.12.04 | Fine |

6.12.01 Definitions

Vicious animals means any animal which attacks or otherwise initiates aggressive physical contact upon any person or domestic animal, when such person or domestic animal is peaceably conducting himself in any place where he may lawfully be at the time of such contact.

A vicious animal may be declared dangerous as a result of attack upon meter readers, postal or delivery personnel or trespassing children. It is the responsibility of the owner or custodian or caretaker or such potentially dangerous animal to protect such persons from harm by securely confining or otherwise controlling said animal.

The animal's breed shall not be considered in determining whether or not it is declared vicious. Further, no animal shall be declared vicious if:

- A. It is protecting or defending a person within the immediate vicinity from any attack or assault;
- B. The person attacked was teasing, tormenting or abusing the animal or its offspring;
- C. The domestic animal/victim was attacked on the property of the owner or custodian of the alleged vicious animal. (Ord. No. 2014-4, Sec. 1.)

6.12.02 Procedures

- A. If a report is made to law enforcement alleging an animal is acting or has acted in a vicious manner, Ozark Police Department will investigate the surrounding circumstances of the complaint. This investigation will be conducted as if a criminal offense has occurred. If, after the investigation has concluded, the Chief of Police or his designee determines that an animal is vicious based upon the definition contained in this ordinance, he will notify the owner or person in control of the animal forthwith, in writing, as to the Police Department's determination.
- B. Upon the determination by the Chief of Police or his designee that an animal is vicious, he shall forthwith make the determination if the animal should be impounded as an imminent immediate threat and danger.
- C. All previous procedures for an animal biting someone shall remain in full force and effect and shall work in conjunction with this section of the amended ordinance.

- D. The Chief of Police or his designee shall:
1. Determine if the animal is to be impounded. In the event he determines the animal should be impounded, impound fees shall be paid prior to the release of the animal by owner.
 2. Determine if the animal is vicious under the definition of this ordinance, but does not pose a future threat to the residents of Ozark, Arkansas, and can be returned to the owner after the required impoundment time;
 3. Determine that the animal is vicious but can be returned to the owner with the specific order that the owner cannot keep the animal in the city limits of Ozark thereafter;
 4. Determine the animal is vicious and cannot be safely released and order its destruction.
- E. If the owner of the animal or the person having care and control of the vicious animal disagrees with the determination of the Chief of Police or his designee, he can appeal the finding to the Ozark City Council. This appeal shall occur within ten (10) days of the written determination to the owner. The animal will remain impounded until the appeal process occurs. The owner or person having care and control over the vicious animal has ten (10) days to formally appeal the Chief of Police or his designee's decision to City Hall. This appeal shall be in writing and shall be filed with the Mayor of the city of Ozark. The city then will have a hearing/determination at its next regularly scheduled Council meeting or sooner, depending on all circumstances.
- F. When a vicious animal's owner appeals the determination of the Chief of Police or his designee, the Chief or his designee will set out all relevant facts and factors that led to the determination that the animal was deemed to be vicious. The City Council shall rely on witnesses and evidence and consider all the criteria, including but not limited to, provocation, severity of attack or injury to person or domestic animal, previous aggressive history of the animal, observable behavior of the animal, site and circumstances of the incident, statement from interested parties. At the conclusion of the hearing, the City Council shall determine if it will uphold the Chief of Police or his designee's decision, deny the Chief of Police or his designee's remedy or come to another determination based upon their own set of circumstances. The decision shall be a majority vote of the City Council members.

- G. If an animal owner objects to the determination by the City Council that includes the destruction of the animal, then that person has the right to appeal to the proper Circuit Court. This appeal shall occur within ten (10) days of the determination of the City Council and the animal will remain impounded pending that time. The owner of the animal will be responsible for the impoundment fees in the event they do not prevail in Circuit Court. These impoundment fees will be collected through any criminal action that occurs and in the event the owner is found guilty. (ord. No. 2014-4, Sec. 2.)

6.12.03 Obligation of owner In addition to the obligations set out in previous ordinances, the owner of animals within the city limits of Ozark have obligations to insure their animals are properly maintained and cared for and are properly secured. When it has been determined that an animal is vicious, under the definition of this ordinance, and the owner or person who has care, control or ownership of that animal that has been deemed to be vicious, has had ownership, care or control of an animal that has previously been determined to be vicious, then that owner forfeits his right to own, possess or control any animal in the city limits of the city of Ozark.

The person with care, control or ownership of the vicious animal shall be notified of the city's determination, and that it is his second offense as to that determination and that he must forthwith remove any and all animals in his care or control, regardless of whether the other animals have been determined to be vicious or not. Notification to the owner or person having care and control over the vicious animal shall be by personal service delivered by an Ozark police officer or be certified mail, restricted delivery to the owner or person with possession and control of said animal. It is not a defense to this finding that the owner or person having care and control over the vicious animal claims that someone else has care and control over the vicious animal and the owner is living in the same structure. The owner of the person having care and control over the vicious animal shall follow the same appeal procedures as outlined above. (Ord. No. 2014-4, Sec. 3.)

6.12.04 Fine If, after the owner has been advised of the determination of the second offense for having a vicious animal, he is guilty of a misdemeanor and said misdemeanor shall be punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) and if such violation continues, each day's violation shall be a separate offense. Any animals found in the possession of the owner shall be subject to immediate seizure and impoundment and the owner shall forfeit his right to have the animal returned to him. (Ord. No. 2014-4, Sec. 3.)

TITLE 7

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

- 7.04 State Criminal Statutes and Penalties
- 7.08 Curfew
- 7.12 Loitering
- 7.16 Private Clubs
- 7.20 Outside Fire Service
- 7.24 Open Burning
- 7.28 Solicitors, Itinerant Peddlers and Hawkers
- 7.32 Trapping
- 7.36 Fireworks
- 7.40 Sexually Oriented Businesses

CHAPTER 7.04

STATE CRIMINAL STATUTES AND PENALTIES

Sections:

- 7.04.01 Misdemeanors
- 7.04.02 Criminal laws adopted
- 7.04.03 Fines

7.04.01 Misdemeanors Each and every act, matter or thing which the laws of the state of Arkansas, make misdemeanor, is hereby prohibited within the corporate limits of the city of Ozark, Arkansas, and made unlawful as a violation of this ordinance. (Ord. No. 151, Sec. 1.)

7.04.02 Criminal laws adopted The criminal laws of the state of Arkansas, as now existing and as hereafter may be provided, insofar as same may make any act, matter or thing a misdemeanor, are hereby adopted and incorporated into the Criminal Code of the ordinance of the city of Ozark, Arkansas. (Ord. No. 151, Sec. 2.)

7.04.03 Fines Each and every person who shall, within the corporate limits of the city of Ozark, Arkansas, violate any of the provisions of the laws into this ordinance incorporated and adopted shall on conviction thereof be punished by fine or imprisonment, or both, as the case

may be, together with the costs of the proceeding of not less than the minimum nor more than the maximum penalty as prescribed by the corresponding state law in such cases make and provide; which penalty shall be enforced in the manner now prescribed by the corresponding state law for the enforcement and collection of fines, forfeitures and penalties imposed by city courts of cities of the second class. All fines when imposed, shall be paid to the Treasurer, who shall deposit said fines in the city treasury and make monthly or quarterly reports to the City Council of such fines collected. (Ord. No. 151, Sec. 3.)

CHAPTER 7.08

CURFEW

Sections:

7.08.01	Curfew
7.08.02	Exceptions
7.08.03	Waiver permit
7.08.04	Waiver permit conditions
7.08.05	Penalties

7.08.01 Curfew It shall be unlawful for any person under the age of eighteen (18) years to be, or to remain unnecessarily in the city streets of public places at night after the hour of 10:30 p.m., Sunday through Thursday nights, and one-half hour after midnight on Friday and Saturday nights. (Ord. No. 95-3, Sec. 1.)

7.08.02 Exceptions The curfew imposed by the provisions of this ordinance shall not apply if the minor person:

- A. Is accompanied by a parent, guardian or other person responsible for or having legal custody of such minor; or
- B. Such minor's gainful employment makes it necessary for such minor to be upon the streets, alleys, or other public places after the specified hours; or
- C. Is on an emergency errand sanctioned by the parent, guardian, or other adult person responsible for or having legal custody of such minor.
(Ord. No. 95-3, Sec. 1.)

7.08.03 Waiver permit The Mayor of the city of Ozark, Chief of Police, and in the event of Chief's absence, the Sergeant, may issue a waiver of curfew permit, which will extend the curfew to a time which is thirty (30) minutes after the scheduled termination time of the activity

for which the permit is granted, to any group of persons subject to the provisions of this division which is sponsored by either a public or parochial school or church within the city or is sponsored by adults, associated with either a public or parochial school, for the purpose of supervising annual senior day and night activities at public or parochial schools in the city. (Ord. No. 95-3, Sec. 1.)

7.08.04 Waiver permit conditions A waiver of curfew permit may be issued only when the planned activity complies with the following conditions:

- A. A written application must be filed with the Mayor of Ozark, Chief of Police, or Sergeant not less than three (3) days prior to the date of which the waiver is requested;
- B. The application must be signed by one or more of the adult sponsors of the group;
- C. The application must show the location of the event for which the waiver is requested;
- D. The application must show the type of function or activity for which the waiver is requested;
- E. The application must show the time of the activity or function will commence and the time will end;
- F. The application must show the name and address of the sponsor of the event;
- G. The application must show the names of the adult supervisors who will be in attendance at the function;
- H. It shall be the responsibility of the adult supervisors to notify the parents of all minors that the waiver has been granted, if it is, and the date and hour when the waiver will expire. (Ord. No. 95-3, Sec. 1.)

7.08.05 Penalties Any minor charged under this ordinance, or against whom a petition for delinquency is filed, shall be subject to the penalties set out in the Arkansas Juvenile Code. (Ord. No. 95-3, Sec. 1.)

CHAPTER 7.12

LOITERING

Sections:

- 7.12.01 Definition
- 7.12.02 Loitering on public property
- 7.12.03 Privately owned business or commercial property
- 7.12.04 Loitering upon privately owned property
- 7.12.05 Penalty

7.12.01 Definition

Loitering shall mean remaining idle in essentially one location and shall include the concepts of spending time idly loafing, or walking about aimlessly, and shall also include the colloquial expression "hanging around." (Ord. No. 94-20, Sec. 1.)

7.12.02 Loitering on public property No person shall loiter in a public place in such a manner as to:

- A. Create or cause to be created a danger of a breach of a peace;
- B. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;
- C. Obstruct the free passage of pedestrians or vehicles;
- D. Obstruct, molest, or interfere with any person lawfully in any public place.
(Ord. No. 94-20, Sec. 2.)

7.12.03 Privately owned business or commercial property To prohibit loitering on or about the privately owned business or commercial property, the owners of said property shall erect signs or placards setting forth such prohibition, and such signs must meet with the following standards:

- A. Signs must be clearly visible from all areas of the property; and
- B. Signs must clearly state that loitering is prohibited on or about the premises.
(Ord. No. 95-18, Sec. 1.)

7.12.04 Loitering upon privately owned property No person shall loiter upon a privately owned business or commercial property in such a manner as to:

- A. Be in violation of or in contravention of the demand of the property owner as set forth on signs erected by the property owner pursuant to 7.12.03 above;
- B. Create or cause to be created a danger of the breach of the peace;
- C. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;
- D. Obstruct the free passage of pedestrians or vehicles; or
- E. Obstruct, molest, or interfere with any person lawfully in any public place. (Ord. No. 94-20, Sec. 4.)

7.12.05 Penalty Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. No. 94-20, Sec. 5.)

CHAPTER 7.16

PRIVATE CLUBS

Sections:

- 7.16.01 Hours
- 7.16.02 Fine
- 7.16.03 Under 18
- 7.16.04 Selling alcohol

7.16.01 Hours It shall be unlawful for the holder of an On-Premises Private Club Permit from the Alcoholic Beverage Control, or the permittee's agent or employee to allow any alcoholic beverage to be consumed, dispensed, or served on premises between the hours of 2:00 a.m. and 10:00 a.m. This ordinance shall apply to all private clubs within the city limits of the city of Ozark, Arkansas. (Ord. No. 91-3A, Sec. 1.)

7.16.02 Fine Any party violating the provisions of this ordinance, shall, upon conviction, be fined Five Hundred Dollars (\$500.00), and for each subsequent offense and conviction, the parties shall be fined One Thousand Dollars (\$1,000.00). (Ord. No. 91-3A, Sec. 2.)

7.16.03 Under 18

- A. It shall be unlawful for the holder of an On-Premises Permit from the Alcohol Beverage Control, or the permittee's agent or employee to knowingly allow any person under the age of eighteen (18) to enter and remain inside a bar where alcoholic beverages are sold or served unless accompanied by a relative.
- B. It shall be unlawful for any person under the age of eighteen (18) to enter and remain inside a bar where alcoholic beverages are sold or served unless accompanied by a relative.

C. Definitions:

Bar – any sole proprietorship, partnership, limited partnership, or corporation inside the Ozark city limits, whose primary business is to sell or serve alcoholic beverages for consumption on premises.

Relative – any parent, grandparent, legal guardian, or a spouse that has obtained the age of eighteen (18) years.

- D. Any party violating the provisions of this ordinance shall be deemed to be guilty of a misdemeanor, and shall, upon conviction, be fined no more than Two Hundred Fifty Dollars (\$250.00). (Ord. No. 91-1, Secs. 1-4.)

7.16.04 Selling alcohol

A. Definitions

Person means either one or more persons, a company, a partnership, a corporation, a syndicate, an association, or any other individual or individuals, whether acting singly or jointly.

Beer means any liquor made from malt or any substitute therefore and having an alcoholic content of not to exceed five percent (5%) by weight.

Light wines means any fermented liquor made from the juice of grapes, berries, or other fruit or fruits and not having an alcoholic content in excess of five percent (5%) by weight.

Intoxicating liquors means vinous malt, ardent, fermented, or distilled spirits having an alcohol content in excess of five percent (5%) by weight.

Wholesale dealer means any person who sells beer or light wines to retail dealers in quantities of three gallons or more.

Retail dealer means any person who sells to the consumer light wines or beer in quantities less than sixteen gallons.

- B. Regulation of sale No person shall sell within the corporate limits of the city of Ozark, Arkansas, any light wines or beer to any minor under the age of twenty-one (21) years; any person who shall sell any such beer or light wines to any such minors shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as hereinafter provided, and in addition to such punishment, the City Council may upon the second conviction of any wholesale or retail dealer revoke the license of such dealer, provided further that each separate sale shall constitute a separate offense.
- C. All persons engaged in the retail of beer or light wines shall open their place of business not earlier than 7:00 a.m. and shall close not later than 11:00 p.m. except taverns may remain open until 12:00 p.m. for on-premise consumption. (Ord. No. 243, Secs. 1-3.)
- D. Any person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of Five Hundred Dollars (\$500.00), and for each subsequent offense and conviction, the person shall be fined One Thousand Dollars (\$1,000.00), and in addition to such fine said offender may be imprisoned in jail not to exceed six (6) months. (Ord. No. 96-21, Sec. 1.)

CHAPTER 7.20

OUTSIDE FIRE SERVICE

Sections:

- 7.20.01 Charges
- 7.20.02 Payment paid
- 7.20.03 Misdemeanor

7.20.01 Charges There shall be a charge of Six Hundred Dollars (\$600.00) when the city of Ozark Fire Department is called as the first respondent to any fire outside the city limits of the city of Ozark, Arkansas. (Ord. No. 2009-17, Sec. 1.)

7.20.02 Payment paid The Six Hundred Dollar (\$600.00) payment shall be made within ninety (90) days of the call. (Ord. No. 2009-17, Sec. 2.)

7.20.03 Misdemeanor If the person, firm partnership, corporation, or limited partnership responsible for such payment does not pay within the ninety (90) day time period, he/it shall be deemed guilty of a misdemeanor and fined Five Hundred Dollars (\$500.00), plus costs of said court as assessed by state law and city ordinance. (Ord. No. 2009-17, Sec. 3.)

CHAPTER 7.24

OPEN BURNING

Sections:

7.24.01	Igniting a fire
7.24.02	Guidelines to outside burning
7.24.03	Attendance at fire
7.24.04	Fire control equipment
7.24.05	Approved burnable items
7.24.06	Exceptions
7.24.07	Conditions for burning
7.24.08	Complaint
7.24.09	Fine

7.24.01 Igniting a fire It shall be unlawful to ignite or maintain any fire in violation of the specific rules and regulations set out in this ordinance. (Ord. No. 2011-5, Sec. 1.)

7.24.02 Guidelines to outside burning Fires started in the city limits of Ozark shall be small in nature and not pose any potential health or property risk because of all surrounding conditions which include but are not limited to the current conditions of the ground or the items to be burned in the fire. Fires shall be at least fifty (50) feet from any building or structure and at no time shall any accelerant be used to start the fire. Any variance from this portion of this ordinance must be approved by the Fire Chief, Assistant Chief or that person designated as a Code Enforcement representative.

This portion of the ordinance, as well as 7.24.06, does not apply to areas that are zoned agricultural or in circumstances where the homeowner's residence sits on three (3) acres or more. However, any large fire that would pose a substantial risk to persons or property by the very nature of the burning, needs approval by the Chief, Assistant Chief or Fire Marshal before the burn begins. (Ord. No. 2011-5, Sec. 2.)

7.24.03 Attendance at fire All fires within the city limits of Ozark must be started by and attended by a competent person at all times, which means the fire may not be too large in size to exceed the amount of locations for those tending the fire to properly manage and control it. The fire must be completely extinguished by dark. (Ord. No. 2011-5, Sec. 3.)

7.24.04 Fire control equipment The person overseeing a fire must use all necessary fire control equipment and must have it available, for example, a garden hose, water extinguisher or heavy equipment. Anything other than water must be approved by the Fire Department. (Ord. No. 2011-5, Sec. 4.)

7.24.05 Approved burnable items The burning of plastics, rubber, shingles or anything that will create black smoke is prohibited. This would also include appliances and furniture. Approved items to burn include limbs, grass clippings and other vegetation. (Ord. No. 2011-5, Sec. 5.)

7.24.06 Exceptions The City Council establishes the regulations and procedures for "open burning" within the city limits of the city of Ozark. While most such burning is prohibited or extremely limited, the following are allowed provided sound fire safety practices are observed:

- A. Non-commercial cooking of food;
- B. Ceremonial or recreational purposes;
- C. Barbecues and outdoor fireplaces used in connection with residence, and "burn barrels" for warmth at bona fide construction site.

Additionally, burning for bona fide agricultural purposes is allowed in an agricultural zone (A-1) as established by the City Council upon issuance of a permit. (Ord. No. 2011-5, Sec. 6.)

7.24.07 Conditions for burning A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in the following manner:

- A. Open burning shall not be offensive or objectionable because of smoke or odor emissions;
- B. No burning will be allowed if atmospheric conditions or local circumstances make such fire hazardous (burn ban). Burn bans may be issued for one of the following reasons:

1. Wind speeds above 10 miles per hour, if there is a question as to the wind speed, don't burn. High winds can quickly take a controlled fire and make it uncontrolled.
2. Dry conditions or very low relative humidity (below 30%).
3. Governor issued burn ban.
4. County judge issued burn ban.
5. Ozark Fire Chief issued burn ban.
6. Ozark Fire Marshal issued burn ban.
(Ord. No. 2011-5, Sec. 7.)

7.24.0 Complaint These rules are in addition to those set out in the State Fire Prevention Code, and the Fire Department may require extinguishment of the fire if a complaint is received, such as smoke blowing into a person's house or other results of the fire causing a nuisance to home or property owners. (Ord. No. 2011-5, Sec. 8.)

7.24.09 Fine Any one found to be in violation of this ordinance shall be guilty of an unclassified misdemeanor. That person shall receive a fine and court costs of not less than Twenty-Five dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00). (Ord. No. 2011-5, Sec. 9.)

CHAPTER 7.28

SOLICITORS, ITINERANT PEDDLERS AND HAWKERS

Sections:

- 7.28.01 Bond
- 7.28.02 Amount
- 7.28.03 Damages to bond
- 7.28.04 Fine
- 7.28.05 Soliciting on the streets

7.28.01 Bond Solicitors of book and magazine subscriptions, as well as itinerant peddlers, hawkers or any other person engaged in selling or offering for sale merchandise or services at retail within the city to the ultimate consumers and not having a regular, permanent place of business in the city shall enter into a bond with good and sufficient surety payable to the city of Ozark, county of Franklin, state of Arkansas, for the use and benefit of any person damaged by breach thereof, to insure performance of services, delivery of merchandise and proper application of monies received therefore. (Ord. No. 278, Sec. 1.)

7.28.02 Amount This bond shall be made in advance of any active soliciting, peddling, hawking or vending contemplated herein and must be in an amount approved by the City Clerk, which is found as a fact, after considering the sum of money likely to be involved or the value of services to be rendered or merchandise to be delivered, to be adequate to protect the public against fraud or dishonest dealing. However, this bond shall not be in an amount less than Five Hundred Dollars (\$500.00). A fee of Five Dollars (\$5.00) shall be paid to the city by each person making such bond, to defray the cost of administering this section. The fee so collected shall be deposited in the city general fund. (Ord. No. 278, Sec. 1.)

*Rex Anderson
sells bonds*

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7.28.03 Damages to bond A person damaged by breach of the bond provided for herein is entitled to recover on the bond the amount of his damages proved, plus costs in a civil action in any court having jurisdiction.

In no event shall the amount of bond required be more than is necessary to effectuate the purpose of this section.

The City Clerk is empowered to administer the provisions hereof. (Ord. No. 278, Sec. 1.)

7.28.04 Fine A person who violates any provisions of this ordinance shall be fined not less than Ten Dollars (\$10.00) nor more than Two Hundred Fifty Dollars (\$250.00) or imprisoned for not more than thirty (30) days or both. Each violation is a separate offense. (Ord. No. 278, Sec. 2.)

7.28.05 Soliciting on the streets

- A. No person, organization, firm or other party shall solicit donations on the streets of Ozark, Arkansas, for any public charity or religious purpose whatsoever without having first secured a permit from the Mayor before doing any such soliciting.
- B. Before any person, organization, firm or group of persons shall be permitted to solicit as provided in the preceding section, they shall submit in writing to the Mayor an application stating the name and headquarters address of the group or organization they represent and solicit for, and the names and addresses of any and all solicitors so engaged or to become engaged in soliciting in and upon the streets of the city of Ozark.
- C. The Mayor is hereby empowered to permit any such organization, firm or other group or party to solicit religious or charitable contributions upon the streets. Such permit so to do shall be issued in writing by the Mayor, shall be attested by the City Clerk and shall bear and show an impression of the city seal in addition to the signatures of the city Mayor and City Clerk. No charge of fee shall be made for any such permit, however, no more than two (2) permits per year shall be issued to any one group or charitable/religious organization.
- D. It shall be unlawful for any person obtaining a permit pursuant to this ordinance to solicit such donations under this section in a place or in a manner which blocks or obstructs vehicular traffic or in any way creates a hazardous driving condition. The Chief of Police or his officers, or the Mayor shall have authority to revoke the permit issued pursuant to this section of any person, firm or corporation who solicits in a manner which blocks and/or obstructs vehicular traffic or creates a hazardous driving condition. The revocation of such permit shall not preclude any other penalties in this ordinance.

- E. Any person, organization, firm, group or party failing to comply with this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), together with the costs of the proceeding. (Ord. No. 2006-15, Secs. 1-5.)

CHAPTER 7.32

TRAPPING

Sections:

7.32.01	Permission
7.32.02	Compliance
7.32.03	Fine

7.32.01 Permission It shall be unlawful for any person to use, set or run snares or traps for the purpose of taking or attempting to take fur-bearing animals within the city limits of the city of Ozark, Arkansas, except beaver may be trapped for the purpose of saving trees or undamming streams to prevent flooding within the city limits.

Any person, corporation or firm who desires to trap beaver for the above stated purpose shall be required to seek permission from the City Council of the city of Ozark at a regular scheduled City Council meeting. If said permission is granted, said trap must have the name of the person doing the trapping on the trap in such a manner so that it can not be easily removed therefrom.

Said trap or snare must be visited each day that it is in place and may not be used more than five (5) days in succession without additional permission being sought from the City Council, of the city of Ozark, Arkansas. (Ord. No. 81-5, Sec. 1.)

7.32.02 Compliance Any trapping done within the city limits of the city of Ozark through permission of the above sections shall also have to be done in compliance with all laws of the state of Arkansas and the Game and Fish Commission. (Ord. No. 81-5, Sec. 2.)

7.32.03 Fine Any person, firm, corporation or agent of either of them who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon issuance of a citation and conviction shall be fined not less than Twenty-Five Dollars (\$25.00) and not more than One Thousand Dollars (\$1,000.00) and are sentences to serve a term in the county jail for not more than thirty (30) days. Each trap or snare set in violation of this ordinance shall be deemed a separate offense. Any and all traps found in violation of this ordinance shall be confiscated, marked and sold at public auction by the Chief of Police of the city of Ozark, Arkansas. (Ord. No. 81-5, Sec. 3.)

CHAPTER 7.36

FIREWORKS

Sections:

- 7.36.01 Unlawful
- 7.36.02 Other occasions
- 7.26.03 Fine

7.36.01 Unlawful

- A. It shall be unlawful for any person or persons to sell, barter, exchange or giveaway or to ignite, fire, shoot, or explode within the corporate limits of the city of Ozark, Arkansas, any firecracker, Roman candle, or any other kind of species of fireworks, or explosives commonly used and ignited or exploded for amusement subject to the following conditions:
 - 1. Any person, corporation, partnership, or sole proprietorship selling any of the above fireworks shall obtain a permit from the City Clerk which may be used for a period of eight (8) days, such eight (8) days being six (6) days prior to the 4th day of July of each year and one (1) day thereafter, including the 4th of July.
 - 2. Any individual, corporation, partnership, or sole proprietorship that explodes fireworks may do so during the same ten (10) day period but under no circumstances shall any fireworks be exploded later than 10:00 p.m. on any day of the ten (10) day period with the exception of the night of the 4th day of July, and fireworks may be exploded until 12:00 midnight on that date only.
 - 3. No stands may be erected, set up, put in place, or sold from prior to seven (7) days before the 4th day of July of each year. All stands for the sale of fireworks are to be removed no later than the 6th day of July of each year.
- B.
 - 1. It shall be unlawful for any person or persons to sell, barter, exchange or giveaway or to ignite, fire, shoot, or explode within the corporate limits of the city of Ozark, Arkansas, any fireworks commonly known as bottle rockets and which are commonly sold by the dozen or by the gross (12 dozen). This specific prohibition only applies to the small bottle rockets which are intended to be shot into the air and then give a single report. (Ord. No. 2003-14, Sec. 1.)

2. Any person or persons selling, bartering, exchanging or giving away, igniting, firing, shooting or exploding said explosives commonly known as "Bottle Rockets" as above defined in Section (1), and having same within the city limits of Ozark, Arkansas, shall be guilty of an unclassified misdemeanor and shall be fined the sum of Seventy-Five Dollars (\$75.00) plus standard court costs, and each instance in violation of this ordinance shall constitute a separate offense by the offender and a separate fine as punishment for each separate offense shall be assessed. (Ord. No. 2003-14, Sec. 4.)

7.36.02 Other occasions If any group, club, association, school, church, or corporation desires to conduct a public display of fireworks at any time otherwise prohibited by Ord. No. 95-35, notification must be presented to the Mayor's office at least fifteen (15) days prior to the public display, and all necessary state and federal permits shall be obtained and proof of same presented to City Hall prior to the public display. (Ord. No. 99-13, Sec. 2.)

7.36.03 Fine Any person, corporation, partnership, or sole proprietorship violating this ordinance shall be guilty of a misdemeanor and fined the amount of Seventy-Five Dollars (\$75.00). (Ord. No. 96-7, Sec. 3.)

CHAPTER 7.40

SEXUALLY ORIENTED BUSINESSES

Sections:

7.40.01	Rationale and findings
7.40.02	Definitions
7.56.03	Classifications
7.40.04	License required
7.40.05	Issuance of license
7.40.06	Fees
7.40.07	Inspection
7.40.08	Expiration of license
7.40.09	Suspension
7.40.10	Revocation
7.40.11	Hearing; license denial, suspension, revocation; appeal
7.40.12	Transfer of license
7.40.13	Hours of operation
7.40.14	Regulations pertaining to exhibition of sexually explicit films on premises
7.40.15	Loitering and exterior lighting and monitoring requirements
7.40.16	Penalties and enforcement

- 7.40.17 Applicability of ordinance to existing businesses
- 7.40.18 Prohibited activities
- 7.40.19 Scienter required to prove violation or business licensee liability
- 7.40.20 Failure of city of Atkins, Arkansas to meet time frame not to risk applicant/licensee rights
- 7.40.21 Location of sexually oriented businesses

7.40.01 Rationale and findings

- A. Purpose It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the city of Ozark, Arkansas, and to establish reasonable and uniform regulation to prevent the deleterious secondary effects of sexually oriented businesses within the city of Ozark, Arkansas. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance 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. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

- B. Findings and rationale Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Ozark City Council, and on findings, interpretation, and narrowing constructions incorporated in the cases of city of Littleton b. Z.J. Gifts D-4, L.L.C. 124 S.Ct. 2219 (June 7, 2004); city of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); Pap's A.M. v. city of Erie, 529 U.S. 277 (2000); city of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986) Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); and World Wide Video of Washington, Inc. v. city of Spokane, 368 F. 3d 1186 (9th Cir. 2004); Ben's Bar, Inc. c. Village of Somerset, 316 F. 3d 702 (7th Cir. 2003);

And based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Houston, Texas – 1983, 1997; Phoenix, Arizona – 1979, 1995-98; Chattanooga Tennessee – 1999-2003; Minneapolis, Minnesota – 1980; Los Angeles, California – 1997; Whittier, California – 1978; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997; Greensboro, North Carolina – 2003; Amarillo, Texas – 1997; New York New York Times Square – 1994; and Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, state of Minnesota).

The Ozark City Council finds:

- A. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- B. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented business, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- C. Each of the foregoing negative secondary effects constitutes a harm which the city of Ozark, Arkansas, has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city of Ozark, Arkansas's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city of Ozark, Arkansas's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city of Ozark, Arkansas, and the City Council of the city of Ozark, Arkansas, finds that the cases and documentation including, but not limited to those set out hereinabove, relied on in this ordinance are reasonably believed to be relevant to said secondary effects. (Ord. No. 2006-5, Sec. 1.)

7.40.02 Definitions For the purposes of this ordinance, the words and phrases defined in the sections hereunder shall have the meanings herein respectively ascribed to them unless a different meaning is clearly indicated by the context.

Adult bookstore or Adult video store means a commercial establishment which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities or specified anatomical areas."

Adult cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

Adult motel means a motel, hotel, or similar commercial establishment which:

- A. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
- B. offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

Adult motion picture theater means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

Characterized by means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-18 or R by the Motion Picture Association of America.

Employ, employee and employment describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time or part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Enforcement Officer means the city of Ozark, Arkansas' Police Chief or Code Enforcement Officer.

Establish or establishment shall mean and include any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- C. The addition of any sexually oriented business to any other existing sexually oriented business.

- D. The addition of any sexually oriented business to any other existing business not initially sexually oriented.

Hearing body shall mean the City Council of the city of Ozark, Arkansas.

Influential interest means any of the following

- A. the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business,
- B. ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or
- C. holding an office (e.g., president, vice-president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Licensee shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

Municipality body means the City Council of the city of Ozark, Arkansas.

Municipality type means city of Ozark, Arkansas.

Nudity or a state of nudity means the showing of the human male or female genitals, public area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operated or cause to operate shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes that business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part-owner, or licensee of the business.

Person shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually

oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to 7.56.04 of this ordinance.

Principal purpose means that the commercial establishment:

- A. has a substantial portion of its displayed merchandise which consists of said items, or
- B. has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- C. has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- D. derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items; or
- E. maintains a substantial section of its interior business space for the sale or rental or said items; or
- F. maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

Regularly means and refers to the consistent and repeated doing of the act so described.

Semi-nude model studio means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

- A. By a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or
- C. In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
2. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

Semi-nude or state of semi-nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at the point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Sexual device means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or service, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

Sexual encounter center shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

Sexually oriented business means an "adult bookstore or adult video store," and "adult cabaret," an "adult motel," an "adult motion picture theater," a "semi-nude model studio," "sexual device shop," or a "sexual encounter center."

Specified anatomical areas means and includes:

- A. Less than completely and opaquely covered; human genitals, pubic region, buttock; and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal activity means:

- A. any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
 - 1. Sex crimes as defined in A.C.A. 5-14-101, *et seq.*
 - 2. Prostitution crimes as defined in A.C.A. 5-70-101, *et seq.*
 - 3. Obscenity crimes as defined in A.C.A. 5-68-101, *et seq.*
 - 4. Drug crimes as defined in A.C.A. 5-64-101, *et seq.*
 - 5. Racketeering as defined in A.C.A. 5-74-101, *et seq.*
- B. any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- C. any offense in another jurisdiction that, had the predicate act(s) been committed in Arkansas, would have constituted any of the foregoing offenses.
- D. any offense which requires registration as a sexual offender or which requires a name to be placed on any registry for sex offenders or any type of abuse, including the Central Registry.

Specified sexual activity means any of the following:

- A. intercourse, oral copulation, masturbation or sodomy; or
- B. excretory functions as a part of or in connection with any of the activities described in (A) above.

Substantial means at least thirty-five percent (35%) of the item(s) so modified.

Transfer of ownership or control of a sexually oriented business shall mean any of the following:

- A. the sale, lease, or sub-lease of the business;
- B. The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means, or
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room shall mean the room, booth, or area where a patrol of sexually oriented business would ordinarily be positioned while watching a film, video cassette, or other video reproduction. (Ord. No. 2006-5, Sec. 2.)

7.40.03 Classification The classifications for sexually oriented businesses shall be as follows:

- A. Adult bookstores or adult video stores;
- B. Adult cabarets;
- C. Adult motel;
- D. Adult motion picture theater;
- E. Semi-nude model studio;
- F. Sexual device shop;
- G. Sexual encounter center.

(Ord. No. 2006-5, Sec. 3.)

7.40.04 License required

- A. It shall be unlawful for any person to operate a sexually oriented business in the city of Ozark without a valid sexually oriented business license.
- B. It shall be unlawful for any person to be an "employee" as defined in this ordinance, of a sexually oriented business in the city of Ozark without a valid sexually oriented business employee license.
- C. An applicant for a sexually oriented business license or sexually oriented business employee license shall be filed in person at the office of the city of Ozark Municipal Building. A completed application will be made on a form provided by the City Clerk with copies to the Ozark Chief of Police and Franklin County Sheriff. The application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in section 1 through 7 below, accompanied by the appropriate fee identified in section 6.
 - 1. The applicant's full true name and any other names used by the applicants in the preceding five (5) years.
 - 2. Current business address or another mailing address of the applicant.
 - 3. Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

4. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
5. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
6. A statement of whether an applicant has been convicted of or has pled guilty or *nolo contendere* to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
7. A statement of whether any sexually oriented business in which applicant has had an influential interest, has, in the previous five (5) years (and at the time during which the applicant had the influential interest):
 - a. been declared by a court of law to be a nuisance; or
 - b. been subject to a court order of closure or padlocking.
8. Proof of delivery of copies to the city and county law enforcement heads as defined hereinabove either by certified mail, return receipt requested, or proof of hand delivery containing the signature thereon by an agent or employee of such department authorized to accept such information.

The information provided pursuant to section 1 through 8 of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the Ozark Chief of Police, and Franklin County Sheriff within ten (10) working days of change of circumstances which would render the information originally submitted false or incomplete.

- D. An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with section 14 and 18 of this ordinance shall submit a diagram indicating that the interior configuration meets the requirements of those sections.
- E. If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to

operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under section 5 and each applicant shall be considered a licensee if a license is granted.

- F. The information provided by an applicant in connection with an application for a license under this ordinance shall be maintained by the office of the Ozark City Clerk on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order. (Ord. No. 2006-5, Sec. 4.)

7.40.05 Issuance of license

- A. Upon the filing of a completed application under 7.40.04 (C) sexually oriented business license, the Ozark City Clerk shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city of Ozark, Arkansas, to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business license application, the Ozark City Clerk shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Ozark City Clerk shall issue a license unless:
1. An applicant is less than eighteen (18) years of age.
 2. An applicant has failed to provide information as required by 7.40.04 for issuance of a license or has falsely answered a question or request for information on the application form.
 3. The license application fee required by this ordinance has not been paid.
 4. The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this ordinance or is not in compliance with locational requirements of this ordinance or the locational requirements of any other part of the city of Ozark Code.
 5. Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - a. been declared by a court of law to be a nuisance; or
 - b. been subject to an order of closure or padlocking.
 6. An applicant has been convicted of or pled guilty or *nolo contendere* to a specified criminal activity, as defined in this ordinance.

- B. Upon the filing of a completed application under 7.40.04 (C) for a sexually oriented business employee license, the Ozark City Clerk shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city of Ozark, Arkansas, to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the City Clerk shall either issue a license or issue a written notice of intent to deny a license to the applicant. The City Clerk shall approve the issuance of a license unless:
1. The applicant is less than eighteen (18) years of age.
 2. The applicant has failed to provide information as required by 7.40.04 for issuance of a license or has falsely answered a question or request for information of the application form.
 3. The license application fee required by this ordinance has not been paid.
 4. Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest).
 - a. been declared by a court of law to be a nuisance; or
 - b. been subject to an order of closure or padlocking.
 5. The applicant has been convicted of or pled guilty or *nolo contendere* to a specified criminal activity, as defined in this ordinance.
- C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing. (Ord. No. 2006-5, Sec. 5.)

7.40.06 Fees The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: Three Hundred Dollars (\$300.00) for the initial fee for a sexually oriented business license and Three Hundred Dollars (\$300.00) for annual renewal; Seventy-Five Dollars (\$75.00) for the initially sexually oriented business employee license and Seventy-Five Dollars (\$75.00) for the annual renewal. All fees to be paid on or before January 31st of each year. (Ord. No. 2006-5, Sec. 6.)

7.40.07 Inspection

- A. Sexually oriented businesses and sexually oriented business employees shall permit the Code Enforcement Officer and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this ordinance, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the city of Ozark, Arkansas, to authorize reasonable inspections of the licensed premises pursuant to this ordinance, but not to authorize a harassing or excessive pattern of inspections.
- B. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. (Ord. No. 2006-5, Sec. 7.)

7.40.08 Expiration of license

- A. Each license shall remain valid for one calendar year unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in 7.40.04 and 7.40.06.
- B. Application for renewal should be made pursuant to the procedures set forth in 7.40.04 at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected. (Ord. No. 2006-5, Sec. 8.)

7.40.09 Suspension

- A. The city of Ozark, Arkansas, shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business license has knowingly violated this ordinance or has knowingly allowed an employee to violate this ordinance.
- B. The city of Ozark, Arkansas, shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this ordinance. (Ord. No. 2006-5, Sec. 9.)

7.40.10 Revocation

- A. The city of Ozark, Arkansas, shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violated this ordinance or has knowingly allowed an employee to violate this ordinance and the licensee's license has been suspended within the previous twelve-month (12) period.

- B. The city of Ozark, Arkansas, shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license as applicable, if:
1. The licensee has knowingly given false information in the application for the sexually oriented business license.
 2. The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises.
 3. The licensee has knowingly or reckless engaged in or allowed prostitution on the premises.
 4. The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or
 5. The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
- C. The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
- D. When, after the notice and hearing procedure described in 7.40.11, the Ozark City Council revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective. (Ord. No. 2006-5, Sec. 10.)

7.40.11 Hearing: denial, revocation, and suspension; appeal

- A. When the Code Enforcement Officer issues a written notice of intent to deny, suspend, or revoke a license, the City Clerk shall immediately send such notice, which shall include the specific grounds under this ordinance for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the City Clerk for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued on which the Ozark City Council shall conduct a hearing on the Code Enforcement Officer's intent to deny, suspend, or revoke the license.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Code Enforcement Officer's witnesses. The Code Enforcement Officer shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Ozark City Council shall issue a written decision, including specific reasons for the decision pursuant to this ordinance, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the Ozark City Council's decision finds that no ground exist for denial, suspension, or revocation of the license, the Ozark City Council shall, contemporaneously with the issuance of the decision, order the Code Enforcement Officer to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the Code Enforcement Officer shall contemporaneously therewith issue the license to the applicant.

- B. If any court action challenging the Ozark City Council's decision is initiated, the Ozark City Council shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The Ozark City Council shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is in operation as of the effective date of this ordinance. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city of Ozark, Arkansas' enforcement of the denial, suspension or revocation, the city of Ozark, Arkansas, shall immediately issue the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city of Ozark, Arkansas' enforcement. (Ord. No. 2006-5, Sec. 11.)

7.40.12 Transfer of license A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application. (Ord. No. 2006-5, Sec. 12.)

7.40.13 Hours of operation No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day. (Ord. No. 2006-5, Sec. 13.)

7.40.14 Regulations pertaining to exhibition of sexually explicit films or videos

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
1. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior or the premises to an accuracy of plus or minus six (6) inches. The Code Enforcement Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 2. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to paragraph 1 of this subsection.
 3. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

4. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
5. It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - a. That the occupancy of viewing rooms is limited to one person
 - b. That sexual activity on the premises is prohibited.
 - c. That the making of openings between viewing rooms is prohibited.
 - d. That violators will be required to leave the premises.
 - e. That violations of subparagraphs (a), (b) and (c) of this paragraph are unlawful
6. It shall be the duty of the operator to enforce the regulations articulated in (5) (a) through (e) above.
7. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty. (Ord. No. 2006-5, Sec. 14.)

7.40.15 Loitering, exterior lighting, visibility, and monitoring requirements

- A. It shall be the duty of the operator of a sexually oriented business to:

1. post conspicuous signs stating that no loitering is permitted on such property;
 2. designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and
 3. provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
- C. No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way. (Ord. No. 2006-5, Sec. 15.)

7.40.16 Penalties and enforcement

- A. A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall be guilty of a Class A misdemeanor, and, upon conviction, shall be punishable by 0 days to 1 years in the Franklin County Jail and/or 0 to \$1,000.00 fine. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.
- B. The city of Ozark, Arkansas' legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this ordinance to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the city of Ozark, Arkansas, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this ordinance, or any of the laws or ordinances in force in the city of Ozark, Arkansas, or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred. (Ord. No. 2006-5, Sec. 16.)

7.40.17 Applicability of ordinance to existing businesses It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

- A. It shall be a violation of this ordinance for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
- B. It shall be a violation of this ordinance for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.
- C. It shall be a violation of this ordinance for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- D. It shall be a violation of this ordinance for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- E. A sign in a form to be prescribed by the Code Enforcement Officer, and summarizing the provisions of paragraphs (A), (B), (C) and (D) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. (Ord. No. 2006-5, Sec. 18.)

7.40.19 Scienter required to prove violation or business licensee liability This ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this ordinance. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for the purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (Ord. No. 2006-5, Sec. 19.)

7.40.20 Failure of the city of Ozark, Arkansas, to meet deadline not to risk applicant/licensee rights In the event that a city of Ozark, Arkansas, official is required to take an act or do a thing pursuant to this ordinance within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the city of Ozark, Arkansas, official under this ordinance, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the city of Ozark, Arkansas, of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or

employee allowed to commence operations or employment the day after the deadline for the city of Ozark, Arkansas' action has passed. (Ord. No. 2006-5, Sec. 20.)

7.40.21 Location of sexually oriented businesses

- A. Sexually oriented businesses shall not be required to obtain a conditional use permit. Sexually oriented businesses shall be permitted subject to the following limitations:
- B. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the city of Ozark, unless said sexually oriented business is at least:
 - 1. One thousand (1000) feet from any parcel occupied by another sexually oriented business or by a business licensed by the state of Arkansas to sell alcohol at the premises; and
 - 2. One thousand (1000) feet from any parcel occupied by a house of worship, licensed day-care center, public or private elementary or secondary school, public bar, or any residence.
- C. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in section A(1) – A(2) above.
- D. Notwithstanding anything to the contrary in the city of Ozark's Code, a non-conforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this ordinance, may continue to operate for three (3) years following the date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said three (3) years, the use will no longer be recognized as a lawful non-conforming use, provided that a non-conforming sexually oriented business may apply for one or more six-month extensions of the original two-year period upon a showing financial hardship. An application for an initial extension based upon financial hardship ("hardship exception") shall be made at least sixty (60) days before the conclusions of the aforementioned three-year (3) period. If a hardship extension is granted, subsequent applications or hardship extensions shall be made at least sixty (60) days before the conclusion of the non-conforming sexually oriented business's current extension period.

- E. An application for a hardship extension shall be filed in writing with the Code Enforcement Officer, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. Within ten (10) days after receiving the application, the City Clerk shall schedule a public hearing on the application before the Ozark Planning and Zoning Commission, which public hearing shall be conducted within thirty (30) days after the Code Enforcement Officer's receipt of the application. Notice of the time and place of such public hearing shall be published at least ten (10) days before the hearing in a newspaper of general circulation published within the city of Ozark, Arkansas, and shall contain the particular location for which the hardship extension is requested. The Ozark Planning and Zoning Commission shall issue a written decision within ten (10) days after the public hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing that the non-conforming sexually oriented business is unable to recoup its investments, made prior to the effective date of this ordinance, in its current location unless the hardship extension is granted.
- F. Exterior portions of sexually oriented businesses.
1. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment
 2. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.
 3. It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - a. The establishment is a part of a commercial multi-unit center; and
 - b. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
 4. Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

E. Signage

1. Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.
2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - a. not contain any flashing lights;
 - b. be a flat plane, rectangular in shape;
 - c. not exceed seventy-five (75) square feet in area; and
 - d. not exceed ten (10) feet in height or ten (10) feet in length.
3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
4. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
5. Secondary signs shall have only one (1) display surface. Such display surface shall:
 - a. be a flat plane, rectangular in shape;
 - b. not exceed twenty (20) square feet in area;
 - c. not exceed five (5) feet in height and four (4) feet in width; and
 - d. be affixed or attached to any wall or door of the enterprise.
6. The provisions of item (A) of subsection (2) and subsection (3) and (4) shall also apply to secondary signs. (Ord. No. 2006-5, Sec. 21.)

TITLE 8

VEHICLES AND TRAFFIC

Chapters:

- 8.04 Adoption of State Laws
- 8.08 Licensing of Motorbikes and Motorcycles
- 8.12 Noise from Vehicles
- 8.16 Train Speed
- 8.20 Contract with Highway Department for Damage Report
- 8.24 Parking
- 8.28 Lease, Acceptance and Dedication of Streets
- 8.32 Vacating Streets and Alleys

CHAPTER 8.04

ADOPTION OF STATE LAWS

Sections:

- 8.04.01 Adoption of state laws

8.04.01 Adoption of state laws The "Uniform Act Regulating Traffic on Highways of Arkansas", as contained in Title 27 of the Arkansas Statutes, three (3) copies of which are on file in the office of the Mayor, is hereby adopted as traffic rules and regulations within and for the city. Any person convicted of violation of said statutes shall be deemed guilty of the violation of the ordinances of the city, and shall be fined or imprisoned or both in the manner set out under the state statutes.

CHAPTER 8.08

LICENSING OF MOTORBIKES AND MOTORCYCLES

Sections:

- 8.08.01 Obtaining license
- 8.08.02 Safety rules
- 8.08.03 Fines

8.08.01 Obtaining license It shall be unlawful for any person to operate a motorbike, motor scooter, motorcycle or similar vehicles in the city of Ozark, Arkansas, without first having obtained a city license for such vehicle. (Ord. No. 159, Sec. 1.)

8.08.02 Safety rules The Police Department of the city of Ozark shall issue a license upon application made in writing, but no such license shall be issued unless the applicant or his parents or guardian exhibits to the licensing authority the following items of safety equipment:

- A. Crash helmet of a type approved by the licensing authority.
- B. Crash bars of a type approved by the licensing authority.
- C. Other safety equipment as the licensing authority may deem necessary on such vehicles. (Ord. No. 159, Sec. 2.)

8.08.03 Fine

- A. The penalty for operating any vehicle herein described without a licenses shall be a fine of not less than Five Dollars (\$5.00) and not more than Twenty-Five Dollars (\$25.00).
- B. Any person convicted of operating any vehicle herein described which has been licensed without wearing a crash helmet shall be fined not less than Five Dollars (\$5.00) and not more than Twenty-Five Dollars (\$25.00), and shall have his license revoked for a period of not less than thirty (30) days or more than one year. (Ord. No. 159, Secs. 3-4.)

CHAPTER 8.12

NOISE FROM VEHICLES

Sections:

- | | |
|---------|---------------|
| 8.12.01 | Muffler noise |
| 8.12.02 | Speaker noise |
| 8.12.03 | Fine |

8.12.01 Muffler noise It is hereby declared to be unlawful for any person, firm, corporation, individual association or agent of either of them, anywhere within the city of Ozark, Arkansas, to operate a motor vehicle without a muffler or with a defective muffler, to make cause or produce any unnecessary, excessive or annoying noise or noises, made by its motor, signaling devices (such as the unnecessary blowing of horns) or other parts of the vehicles.

The motors of all such vehicles shall be filled with properly attached mufflers of such capacity or construction as to quiet exhaust noises insofar as possible. Any cutout or opening in the exhaust pipe between the motor and the muffler on any vehicle shall be completely closed and shall be so arranged that it cannot automatically open or be opened while such vehicle is in motion. (Ord. No. 259, Sec. 1.)

8.12.02 Speaker noise It is further declared to be unlawful for any person, firm, corporation, individual, association, or agent of either of them, anywhere within the city of Ozark, Arkansas, to operate or play a radio, stereo, tuner, P.Z., or other such device which contains speakers, in such a manner as to make, cause, or produce any unnecessary, excessive or annoying noise whether same be operated from a residence or a vehicle or from a stand alone system operated out in the open. (Ord. No. 98-19, Sec. 2.)

8.12.03 Fine Any person, firm, corporation, individual, association, or agent of either of them who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined One Hundred Dollars (\$100.00). (Ord. No. 98-19, Sec. 1.)

CHAPTER 8.16

TRAIN SPEED

Sections:

- | | |
|---------|-----------|
| 8.16.01 | Speed |
| 8.16.02 | Accidents |
| 8.16.03 | Fine |

8.16.01 Speed Any railroad locomotive, train or other related railroad equipment which travels upon the rails in any incorporated area located within the city of Ozark, Arkansas, shall not be operated with in said incorporated area of the city of Ozark at a speed greater than forty-five (45) miles per hour. (Ord. No. 282, Sec. 1.)

8.16.02 Accidents Any railroad locomotive, train or other related railroad equipment which travels upon the rails of the city of Ozark, Arkansas, that shall become involved in any accident or derailment in any incorporated area located within the city of Ozark, Arkansas, shall immediately notify the Franklin County Sheriff's office of the location and the nature of such accident or derailment. (Ord. No. 282, Sec. 2.)

8.16.03 Fine Any person or corporation who violated any of the provisions of 8.16.01 of this ordinance shall, upon conviction thereof, be guilty of a misdemeanor, and for a first conviction thereof, be punished by a fine of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for not less than one (1) day nor more than ten (10) days, or by both such fine and imprisonment.

For a conviction for a second such violation with one (1) year, such person or corporation shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Two Hundred Fifty Dollars (\$250.00) or by imprisonment in the county jail for not less than five (5) days nor more than twenty-five (25) days, or by both such fine and imprisonment.

For a conviction of a third or subsequent violation with one (1) year, such person or corporation shall be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not less than twenty-five (25) days nor more than one hundred eighty (180) days, or by both such fine and imprisonment. (Ord. No. 282, Sec. 3.)

CHAPTER 8.20

CONTRACT WITH HIGHWAY DEPARTMENT FOR DAMAGE REPORT

Sections:

- 8.20.01 Contract
- 8.20.02 Costs

8.20.01 Contract In a special session that the Mayor is hereby authorized to enter into the following contract with the Arkansas State Highway Department:

- A. In consideration of the promise hereinafter made by Ozark, Arkansas, the Arkansas State Highway Commission agrees to make a survey of the damage to the streets and structures of Ozark, Arkansas, caused by floods or other Acts of God in order to determine the extent of eligibility of Ozark, Arkansas, for reimbursement for such damage from Federal Disaster Aid Funds as administered by the Federal Office of Emergency Preparedness, and to make an estimate of the cost of such repairs and replacements and other necessary reports.

- B. In consideration of the promise of the Arkansas State Highway Commission to do and accomplish the hereinabove set out acts necessary to enable Ozark, Arkansas, to receive reimbursement from Federal Disaster Aid, Ozark, Arkansas, covenants, agrees and contracts to pay to the Arkansas State Highway Commission the cost incurred by said Commission in making the survey and cost estimates hereinbefore agreed upon in the following manner: Ozark, Arkansas will deposit with the Arkansas State Highway Commission a minimum of One Hundred Fifty Dollars (\$150.00), or one percent (1%) of the Mayor's total estimate of allowable federal reimbursement under Public Law No. 91 606. (Ord. No. 206, Secs. 1-2.)

8.20.02 Costs It is understood that upon final disposition of the matter at hand, the city reserves the right to have the return of any unused portion of the above deposit and binds itself to pay any additional sum if the above deposit is insufficient to cover the costs herein provided for. (Ord. No. 206, Sec. 2.)

CHAPTER 8.24

PARKING

Sections:

- 8.24.01 Parking illegally
- 8.24.02 Fine
- 8.24.03 Enforcement
- 8.24.04 Truck parking
- 8.24.05 Parking for storage
- 8.24.06 Abandonment of vehicle

8.24.01 Parking illegally It is hereby declared to be unlawful for any person, firm, corporation, individual association or agent of either of them, anywhere within the city of Ozark, Arkansas, to park in an illegal manner, park on the wrong side of the road, park in a "No Parking" zone as designated, or to remain parked in an area over a time limit so designated. (Ord. No. 280, Sec. 1.)

8.24.02 Fine Any person, firm, corporation, individual, association or agent of either of them who violates any of the provisions of this ordinance shall be deemed guilty of a traffic violation, and upon issuance of a ticket for such, shall be obligated to pay for said violation to the Chief of Police or to the City Clerk within two (2) weeks a fine of Five Dollars (\$5.00). If said fine is not paid within two (2) weeks, said fine will double in an amount to Ten Dollars (\$10.00). If a person desires to contest or appeal the parking citation, then they must notify the District Court Clerk of such desire and request that the matter be set on the court's docket whereby the individual will be given an opportunity to contest or appeal the charge. If the above mentioned fine is not paid within one (1) month or if the District Court Clerk is not notified within one (1) month of the alleged violators intention to contest or appeal he charge, than a warrant will be issued and the violator will be brought before the District Court Judge and shall be required to pay a fine of Ten Dollars (\$10.00), plus court costs. (Ord. No. 95-5, Sec. 1.)

8.24.03 Enforcement It shall be the duty of the Chief of Police of the city of Ozark, Arkansas, and his patrolmen to enforce this ordinance. (Ord. No. 280, Sec. 3.)

8.24.04 Truck parking

- A. The city of Ozark does hereby establish a parking prohibition, prohibiting parking of semi-trucks (18-wheelers) on or along state or federal highways and all city streets, unless specifically allowed by posted signs or allowed by painted markings on the highway surface.
- B. Vehicles parked illegally and in violation of this prohibition shall be subject to fines and penalties of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), plus costs, and each twenty-four (24) hour day said parking violation exists shall constitute a separate offense. (Ord. No. 2008-6, Secs. 1-2.)

8.24.05 Parking for storage

- A. Upon passage of this ordinance, it shall be a violation for an owner or operator of any vehicle to park a vehicle with a trailer or a trailer alone in the public parking area with the intent of storing the trailer and/or storing items on the trailer. For the purpose of this ordinance, the intent of storing a trailer is presumed if the trailer is parked for more than two (2) days continually.
- B. It is non-compliance with this ordinance for the owner or operator of the vehicle/trailer to move the trailer to another public parking spot after the two (2) days expire.

- C. Those found to be in violation of this ordinance shall pay a fine of not less than Fifty Dollars (\$50.00), nor more than Two Hundred Fifty Dollars (\$250.00). Each two (2) day period shall constitute a separate violation. (Ord. No. 2014-3B, Secs. 1-3.)

8.24.06 Abandonment of vehicle

- A. Upon passage of this ordinance, it shall be a misdemeanor violation for anyone abandoning a vehicle, boat, motor home, camper trailer or any other wheeled personal property on a designated city parking space.
- B. **Abandonment** shall mean any of the above described property being continually parked in a city parking space for more than forty-eight (48) hours. The momentary moving of any of the above described property shall not be construed as interrupting the “continuous park” provision contained in this section.
- C. Any person or corporation found in violation of this ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) for each forty-eight (48) hour period, the person or corporation is in violation and each forty-eight (48) hour period will stand as a separate violation. (Ord. No. 2014-5, Secs. 1-3.)

CHAPTER 8.28

LEASE, ACCEPTANCE AND DEDICATION OF STREETS

Sections:

- | | |
|---------|-----------------------|
| 8.28.01 | Lease of streets |
| 8.28.02 | Acceptance of streets |
| 8.28.03 | Dedication of streets |

8.28.01 Lease of streets Said portion of said street, South Second Street lying south and east of River Street and between River Street and Missouri Pacific Railway right-of-way in the city of Ozark, be leased to adjoining land owner for a period of ninety-nine (99) years, with an option to renew said lease at the end of said term for a nominal consideration and that the Mayor and Recorder be, and they are hereby authorized to execute said lease. (Ord. No. 134, Sec. 1.)

8.28.02 Acceptance of streets

- A. This ordinance shall apply only to those streets lying within the city limits of the city of Ozark which have been under public use for at least ten (10) years, and which meet this public use requirement as determined by the City Council for each specific street.
- B. The streets to which this ordinance may apply, must serve or benefit two or more residences or businesses adjoining the street.
- C. It shall be incumbent upon the owners of land adjoining the street in question that they petition the City Council with a petition meeting the following requirements:
 - 1. All adjoining land owners must join in the petition;
 - 2. All persons with any ownership interest or other interest in the street or right-of-way shall join in the petition;
 - 3. The petition must set forth that the street has been used by the public for greater than ten (10) years;
 - 4. The petition must set forth that all adjoining land owners and persons owning an interest in the street or right-of-way will agree to pay 40% of the cost of construction necessary in order to bring the city street up to standards as set forth in Ord. No. 158;
 - 5. The petition must set forth the manner in which the adjoining property owners and all other persons holding an interest in the street or right-of-way will pay of finance the 40% requirement set forth in the subparagraph immediately above;
 - 6. The petition must set forth that the 40% requirement for construction costs will be paid to the city prior to acceptance of the street; and
 - 7. The petition shall set forth a legal description for the street or right-of-way, and said petition shall have affixed thereto a plat of the street or right-of-way prepared by a licensed surveyor licensed by the state of Arkansas.
- D. It is the intention of the city of Ozark that it will accept and pave each year one-half (½) mile of any streets meeting the requirements set forth herein. The streets which the city will accept, pave, and maintain pursuant hereto will be on a first come, first serve basis. In other words, those streets or right-of-ways which are the subject of a petition meeting the requirements and approval of the City Council and which are accepted, will be paved and maintained in the order in which they are accepted.
- E. This ordinance shall only apply to those street and right-of-ways which at the time of the passage of this ordinance meet the ten (10) year time requirement set forth in this ordinance.

F. Prior to the acceptance of any street or right-of-way, the said property lying within the street or right-of-way shall, in the opinion of the City Attorney of the city of Ozark, be transferrable and conveyable to the city in a manner such that the city of Ozark will receive merchantable title to same. Prior to acceptance by the city of the street or right-of-way, the adjoining land owners and all persons holding or owning an interest in the street or right-of-way must obtain a surveyor certification for the benefit of the city of Ozark and which shall be in the following form:

This is to certify that I, _____, land surveyor, platted for road dedication purposes the above described property as shown by the annexed plat which is a correct and true representation thereof. All distances are shown in feet and decimals thereof.

Given under my hand and seal at _____, this _____ day of _____.
(Ord. No. 95-36, Secs. 1-6.)

8.28.03 Dedication of streets

Ord. No. 115	Huggins Avenue
Ord. No. 90-9	Jeffers Drive
Ord. No. 91-16	Woodland West Street
Ord. No. 93-20	Tucker Street in Conatser Addition
Ord. No. 94-34	Streets in Faith West II Addition
Ord. No. 98-24	Part of SE ¼ of Sec. 34, Two 10 N, Range 27 West
Ord. No. 2007-8	Part of Lots 5 & 6

CHAPTER 8.32

VACATING STREETS AND ALLEYS

Sections:

8.32.01 Vacating streets and alleys

8.32.01 Vacating streets and alleys

Ord. No. 161	Part of Fifth St. between River St. and MO/PAC
Ord. No. 191	20 ft. alley between 6 th St and along Lots 13, 14, 15, & 16
Ord. No. 246	Ceatham St. in SW ¼ of Sec. 35, Twp 10 N, Range 27 West
Ord. No. 247	College Ave. between Lot 1, and Lot 6 in Sunny Slope Addition
Ord. No. 259	Alley from Hill St. to Cedar St. in Sunny Slope Addition
Ord. No. 292	Part of Second and Third St.

CHAPTER 8.32**VACATING STREETS AND ALLEYS**Sections:

8.32.01 Vacating streets and alleys

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Ord. No. 247	College Ave. between Lot 1, and Lot 6 in Sunny Slope Addition
Ord. No. 259	Alley from Hill St. to Cedar St. in Sunny Slope Addition
Ord. No. 292	Part of Second and Third St.
Ord. No. 296	Part of River St. in Block 21 of Fleeman's Addition
Ord. No. 297	Streets in NE corner of Lot 28 in Fleeman's Addition
Ord. No. 81-3	Main St. at Block 29 of Fleeman's Addition
Ord. No. 81-4	Part of alley adjoining Knoles property between Main St. and River St.
Ord. No. 84-2	Part of South 10 th St. in Fleeman's Addition
Ord. No. 85-5	Alley between Lots 8 & 9 in Block 21
Ord. No. 86-3	Part of Eighth St. in Fleeman's Addition
Ord. No. 87-1	West 24 ft. of Cedar St. & part of College Ave.
Ord. No. 87-2	SE corner of Block 27, Fleeman's Addition
Ord. No. 91-31	Alley along Lots 1, 2, 9, 10, 11, & 12 of Block 3
Ord. No. 96-18	Barcliff Lane east of Highway 64
Ord. No. 96-19	Alley running north and south in Block 12
Ord. No. 97-2	Part of College Ave. in Sunny Slope Addition
Ord. No. 97-13	Alley beginning at corner of Lot 1 in Block 6
Ord. No. 2003-17	Main St. between 10 th and 11 th St.
Ord. No. 2003-18	Alley between 10 th and 11 th St.
Ord. No. 2006-1	6 th St. and alleyway between Main and Commercial St.
Ord. No. 2007-13	North 6 th St. between Commercial St. and College St.
Ord. No. 2007-14	Altering River St. right-of-way pertaining to Lots 4 & 5
Ord. No. 2008-3	Altering Spring St. right-of-way pertaining to Block 20
Ord. No. 2008-9	Part of alley between Main & Commercial St.
Ord. No. 2013-6	Eighth and Ninth Streets from River St. S. to railroad are closed
Ord. No. 2017-2	North Fourth Street off Market Street

TITLE 9

STREETS AND SIDEWALKS

Chapters:

- 9.04 Master Street Plan
- 9.08 Outdoor Shielded Lighting
- 9.12 Street Cuts

CHAPTER 9.04

MASTER STREET PLAN

Sections:

- 9.04.01 Adopted by reference
- 9.04.02 Amendments

9.04.01 Adopted by reference The Ozark Master Street Plan attached hereto and incorporated herein by reference shall be and hereby is adopted by reference. A copy of the Master Street Plan shall be maintained at the City Hall of the city of Ozark at all times and made available for inspection and copying upon request. (Ord. No. 99-10, Secs. 1-2.)

9.04.02 Amendments

Ord. No. 2002-6

Any and all reference to a neighborhood street or any other street having less than a sixty-foot right-of-way is hereby declared null and void. No public use street having less than a sixty-foot right-of-way will be permitted within the city of Ozark or extra-territorial jurisdiction area of the city of Ozark. This amendment does include alleyways where they are a part of a planned subdivision.

CHAPTER 9.08

OUTDOOR SHIELDED LIGHTING

Sections:

9.08.01	Finances
9.08.02	Prohibitive
9.08.03	Exemption

9.08.01 Finances The City Council finds that over time its current \$72,000 spent each year on streetlight has gone up nine percent (9%) to twelve percent (12%) based on the newly set Entergy of Arkansas rates for the shielded lights. (Ord. No. 2007-4, Sec. 1.)

9.08.02 Prohibitive The City Council hereby determines that the cost of acquiring shielded outdoor lighting fixtures will be prohibitive. (Ord. No. 2007-4, Sec. 2.)

9.08.03 Exemption The city of Ozark hereby expressly intends to avail itself of the exemption from the requirements of the Act pertaining to the purchase of shielded outdoor lighting fixtures. (Ord. No. 2007-4, Sec. 3.)

CHAPTER 9.12

STREET CUTS

Sections:

9.12.01	Charges for cut
9.12.02	Penalty
9.12.03	Fines paid

9.12.01 Charges for cut

- A. The charge to be placed upon and paid by any individual, person, partnership, corporation, or otherwise desiring to cut a city street in order to lay or tap into a water, sewer, or gas line or for any other purpose shall be Two Hundred Fifty Dollars (\$250.00). However, if in the discretion of the City Street Superintendent, the repairs to the damaged street necessitated by the street cut have been made in a reasonable manner and satisfactory to the said Street Superintendent, then the individual may be entitled to a refund of One Hundred Dollars (\$100.00).

- B. All utility companies, partnerships, or cooperatives may forego the above requirement of a street cut payment to be paid in every instance where a street cut is necessary if the utility provider makes an initial deposit to the city in the sum and amount of Five Hundred Dollars (\$500.00). Said deposit shall be held by the city and same shall be forfeited if any street cut is not repaired to the reasonable satisfaction of the City Street Superintendent. However, this provision shall not relieve utility providers from the obligation of informing the city of Ozark and obtaining prior approval for all desired street cuts.
- C. Nothing in this ordinance shall be construed to relive the obligation of any person, corporation, partnership, or otherwise making a street cut from repairing the street in a manner reasonably satisfactory to the City Street Superintendent. Such a failure to adequately repair the street shall be subject to and enable the city to pursue a claim in a court of competent jurisdiction for money damages. (Ord. No. 96-11, Sec. 1.)

9.12.02 Penalty Any violation of this ordinance shall be deemed a misdemeanor and shall be subject to a penalty in an amount not exceeding Two Hundred Dollars (\$200.00). (Ord. No. 96-11, Sec. 1.)

9.12.03 Fines paid All fines and proceeds collected under the provisions of this ordinance shall be paid by the collecting officer to the City Clerk. (Ord. No. 90-1, Sec. 3.)

TITLE 10

UTILITIES

Chapters:

- 10.04 Sewer Regulations
- 10.08 Customer Service Policy and Water Rates
- 10.12 Sewer and Water Easements
- 10.16 Cross Connection Control

CHAPTER 10.04

SEWER REGULATIONS

Sections:

- 10.04.01 Definitions
- 10.04.02 Use of public sewers required
- 10.04.03 Private sewage disposal system
- 10.04.04 Building sewers and connections
- 10.04.05 Use of public sewers
- 10.04.06 Protection from damage
- 10.04.07 Power and authority of Inspectors
- 10.04.08 Penalty for violation
- 10.04.09 Joint sewer contract

10.04.01 Definitions Unless the context specifically indicates otherwise, the meaning of the terms used shall be as follows:

BOD (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20⁰) degrees C, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.

Combined sewer shall mean a sewer receiving both surface run-off and sewage.

Garbage shall mean the solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

Person shall mean any individual, firm, company, association, society, corporation or group.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Properly shredded garbage shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half ($\frac{1}{2}$) inch in any dimension.

Public sewer shall mean a sewer in which all owners of abutting properties have equal right and is controlled by public authority.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground surface, and stormwaters as may be present.

Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.

Sewage works shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

Sewer shall mean a pipe or conduit that carries sewage.

Shall is mandatory; **may** is permissive.

Slug shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation.

Storm-drain (sometimes termed storm sewer) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Superintendent shall mean the superintendent of the sewage works of the city of Ozark, or his authorized representative.

Suspended solids shall mean solids that float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently. (Ord. No. 250, Art. 1)

10.04.02 Use of public sewers required

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city of Ozark, Arkansas, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the city of Ozark, Arkansas, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that the public sewer is within three hundred (300) feet of the property line. (Ord. No. 250, Art. II.)

10.04.03 Private sewage disposal system

- A. Where a public sanitary or combined sewer is not available under the provisions of 10.04.02, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

- B. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of Ten Dollars (\$10.00) shall be paid to the city at the time the application is filed.
- C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Superintendent.
- D. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the state of Arkansas. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- E. At such time as a public sewer becomes available to a property served by a private sewage system, as provided in 10.04.03, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.
- G. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
- H. When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
(Ord. No. 250, Art. III.)

10.04.04 Building sewers and connections

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereon without first obtaining a written permit from the Superintendent.

- B. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of Ten Dollars (\$10.00) per fixture connection for a residential or commercial building sewer permit and Ten Dollars (\$10.00) per fixture connection for an industrial building sewer permit shall be paid to the city at the time the application is filed.
- C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. The building sewer from the front building may extend to the rear building and the whole considered as one building sewer.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the Superintendent, to meet all requirements of this ordinance.
- F. The size, slope, alignment, material of construction, and the methods used for excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person shall make connection of roof downspouts, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

- I. The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9 shall apply. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
- J. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and warning lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
(Ord. No. 250, Art. IV.)

10.04.05 Use of public sewers

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters shall be discharged on approval of the Superintendent to a storm sewer.
- C. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewer:
 - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquids, solids, or gas;
 - 2. Any waters or wastes containing toxic poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) ms/1 as CN in the wastes as discharged to the public sewer.

3. Any water or wastes having a pH lower than 6.0 or having any other corrosive property capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment, process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
1. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F. (sixty-five (65) degrees C);
 2. Any water or wastes containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l; or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F and sixty-five (65) degrees C;
 3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.56 kw) or greater shall be subject to the review and approval of the Superintendent;
 4. Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not;
 5. Any waters or wastes containing toxic materials or heavy metals in concentrations exceeding the following limits:

<u>Element</u>	<u>mg/l</u>	<u>Element</u>	<u>mg/l</u>
Arsenic	0.05	Lead	0.1
Barium	5.0	Manganese	1.0
Boron	1.0	Mercury	0.005
Cadmium	0.02	Nickel	0.8
Chromium (total)	0.5	Selenium	0.02
Copper	0.2	Silver	0.1
Zinc	0.5	Cyanide	0.05

In addition, waters, or wastes containing any measurable trace of the following:

Antimony	Molybdenum	Uranylion	Tellurium
Beryllium	Tin	Rhenium	Herbicides
Bismuth	Pesticides	Strontium	Fungicides
Cobalt			

6. Any waters or wastes containing phenols or other taste or odor producing substances in such concentration exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters;
7. Any radioactive wastes or isotopes of which exhibit such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;
8. Any waters or wastes having a pH in excess of nine (9).
9. Materials which assert or cause:
 - a. Unusual concentration of inert suspended solids (such as but not limited to Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein; and

10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 11. The storage of any material in areas served by public sewers or in areas draining into the city sewer which because of discharge or leakage from such storage, may create an explosion hazard in sewage works, or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human being or animals, or the receiving stream shall be subject to review by the Approving Authority, who at his discretion, may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.
- E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 10.04.04 of this article, and in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
1. reject the wastes;
 2. require pretreatment of an acceptable condition for discharge to the public sewers;
 3. require control over the quantities and rates of discharge, and/or;
 4. require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of 10.04.10 of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes ordinances and laws.

- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing greases in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

- G. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- H. When required by the Superintendent, the owner of any property services by a building sewer carrying industrial wastes, shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- I. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. . Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.
- J. In the event the Superintendent determines the necessity of a payment to cover the added cost of handling and treating any waters or wastes proposed to be discharged into the public sewers pursuant to 10.04.05, or it is determined by the Board that the discharge of wastewaters having an excessive BOD or suspended solids content constitutes an added expense in the operation and maintenance of the city's sewer works, then the Superintendent may require a payment to cover the added cost not covered by existing sewer charges. Excessive BOD is hereby defined as those wastewaters containing in excess of two hundred fifty (250) mg/l BOD and excessive suspended solids, each determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater." The added charge shall be computed separately for BOD and suspended solid content on the total discharge.

The acceptance of the city of additional prohibited wastes or wastewaters shall be accomplished pursuant to a special agreement or arrangement between the city, approved by its governing body, and the industrial concern.

- K. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment, therefore, by the industrial concern. (Ord. No. 250, Art. V.)

10.04.06 Protection from damage No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. No. 250, Art. VI.)

10.04.07 Power and authority of Inspectors

- A. The Superintendent and other duly authorized employees bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance. The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- B. While performing the necessary work on private properties referred to in part A. above, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to city employees, and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in 10.04.05.
- C. The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurements, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. No. 259, Art. VII)

10.04.08 Penalty for violation

- A. Any person found to be violating any provision of this ordinance except 10.04.07 shall be served by the city with written notice stating the nature of the violation

and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

- B. Any person who shall continue any violation beyond the time limit provided for in part (A) above of this article, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not exceeding One Thousand Dollars (\$1,000.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. No. 92-24, Sec. 1.)
- C. Any person violating any of the provisions of this ordinance shall become liable to the city for any expenses, loss or damage occasioned the city by reason of such violation. (Ord. No. 250, Art. VIII.)
- D. Any and all water deposits on hold by the city of Ozark shall be retained, until the Water/Sewer Superintendent and/or his or her designee has made a visual inspection of sewer connections at the location to insure that water, debris, or other foreign materials or liquids are not entering the sewer system. After the approval of the premises the Superintendent and/or his or her designee shall notify accounting personnel for a deposit refund according to existing policies. (Ord. No. 93-3, Sec. 1.)

CHAPTER 10.08

CUSTOMER SERVICE POLICY AND WATER RATES

Sections:

10.08.01	Definitions
10.08.02	General rules
10.08.03	Obtaining water service
10.08.04	Customer billing
10.08.05	Payment terms
10.08.06	Termination of water service
10.08.07	Reconnection of water service after termination for non-payment
10.08.08	Meters
10.08.09	Main extensions
10.08.10	Applications having excessive need
10.08.11	Availability of records for public inspection
10.08.12	Service charges
10.08.13	Rates
10.08.14	Special rates
10.08.15	Changes

10.08.16 Watalula Water Users Association

10.08.01 Definitions

Applicant Any individual, firm, partnership, authority, or other entity residing or owning land within the service area, or a wholesale water supplier serving another water service area applying for water service.

Council The governing body of the Ozark Water Department, Ozark, AR or its authorized representative(s).

Customer Any individual, firm partnership, corporation, authority, or other entity which has applied for and is currently receiving water service.

Point of delivery The point of delivery of service to each customer shall be at the meter, unless otherwise specified.

Point of use For each customer of the Ozark Water Department, the point of use shall mean the precise location at which water is used or consumed (a residence, building, dwelling, business, etc.) or similar location on the customer's premises, where water is to be used by the customer.

Service The term shall mean the availability for use by the customers of water adequate to meet the customer's requirements. Service shall be considered "available" when the utility maintains the water supply at normal pressure at the point of delivery in readiness for the customer's use, regardless of whether or not the customer makes use of it.

Service are The geographic areas served by the utility described on attachments.

Service line The water line that extends from the point of delivery to the point of use for each customer of the utility.

Water service connection A water service connection consists of a water meter and other facilities for supplying water to a single point of use (one residence, dwelling, property, or premises, structure, business, etc.). A single customer may be supplied by more than one service connection if that customer has more than one point of use. (Ord. No. 94-1, Sec. 1.)

10.08.02 General rules

- A. The purpose of the utility is to provide a safe supply of water to the customers within its service area. The supplying and taking of water shall be in conformance with these rules and regulations, the applicable city and state plumbing codes and the applicable rate schedules of the utility.

- B. Each customer of the utility shall be eligible to receive service from the Utility only after a meter deposit has been paid by the customer as a means of guaranteeing payment of any outstanding debt owed by the customer to the utility. If the customer requires service at more than one point of use, a separate meter deposit shall be paid for each additional point of use. The deposit for bulk water purchases shall be Seventy-Five Dollars (\$75.00). (Ord. No. 2007-10, Sec. 1.)
- C. The utility agrees to provide service to the point of delivery, and install and maintain at its expense, one metered service connection for each customer point of use.
- D. The customer will install and maintain at his own expense, service lines from the point of delivery to the point of use. The customer will make repairs on a timely basis as necessary. All new water services will require the customer to install a shut-off valve with valve box and check valve to be located on the customer side of the water meter. (Ord. No. 2007-10, Sec. 1.)
- E. A metered service connection is for the sole use of the applicant or customer. Customers shall not permit the extension of pipes for the purpose of transferring water from one property to another; from one point of use to another, nor share, re-sell, or sub-meter water to any other property. The exception to this regulation would be a public water system purchasing water from the utility for re-sale within its own service area.
- F. Multiple residential and appoint of use properties: The standard residential rates of the system shall be applicable to all multiple residential and point of use properties. Multiple residential properties include mobile home parks, apartment buildings, motels, housing complexes, or similar residential developments. The Council may, at its discretion, choose to serve multiple residential properties through a single master meter. In such cases, the owner must agree in writing that he/she will be responsible for payment of the monthly water bill. The system's monthly bill for multiple residential properties will be computed as follows:
- Ozark Water Department's minimum residential rate X the total number of dwelling units; plus, per 1000 gallon charge for all gallons used above the total minimum gallon usage for all units.
- G. At no time shall any customer or individual connect a non-system water source to any service line or water line that is also connected to the system. Representatives of the utility shall have the right to enter customer's premises for the purpose of inspection and enforcement of this policy at all reasonable hours. Violations of this policy shall constitute cause for immediate disconnection of service.

- H. It is the responsibility of each customer to anticipate changes in occupancy and to have service transferred to the new customer in accordance with the policy for obtaining service (See 10.08.03(A)). Until service is formally transferred, the original customer shall be responsible for payment of service. The utility may refuse to transfer service until all past-due bills and charges have been paid.
- I. Customers agree to pay the established fees for water service in accordance with the schedules contained herein at the time service is provided by the utility.
- J. Representatives of the utility shall have the right at all reasonable hours to enter the customer's property in order to: read water meters; inspect piping; and to perform other duties for the proper maintenance and operation of service, or to remove its meters and equipment upon discontinuance of service by either the customer or the utility.
- K. The utility will make all reasonable efforts to supply continuous, uninterrupted service. However, it shall have the right to interrupt service for the purpose of making repairs, connections, extensions, or for other necessary work. Efforts will be made to notify customers who may be affected by such interruptions, but the utility will not accept responsibility for losses which might occur due to such necessary interruptions of service caused by storms, floods, or other causes beyond its control.
- L. New water/sewer services will be installed, i.e. connected, only after normal tap fees are paid and customer has furnished proof to the utility that the proper address numbers are posted to building or structure. (Ord. No. 94-1, Sec. 1.)
- M. The Ozark Water Department will repair/replace old sewer services located in city streets to the customer's property line after the customer provides proof from a licensed plumber that a problem exists in the street. The customer shall pay for a street cut and all materials to repair the sewer service. (Ord. No. 2007-10, Sec. 1.)
- N. For the fiscal year 2007, the following named position will have an established salary at the level set opposite each position listed below:

Part-time certified officers (Ord. No. 2007-11, Sec. 1.)	\$11.50/hr.
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10.08.03 Obtaining water service

- A. Applications for service shall be taken at the utility office, and must be accompanied by a connection fee of (See schedule below) and a meter deposit of Fifty Dollars (\$50.00) for both residential and commercial customers, and a Seventy-Five Dollars (\$75.00) deposit for commercial water or fire hydrant users.

When service is discontinued, any portion of the deposit remaining after the final bill has been paid will be returned to the customer upon their requesting. Customers with termination due to non-payment will have their deposit applied to their account to satisfy the final bill and any balance will be posted to the Utilities Bad Debt list for future inquiries. (Ord. No. 2012-19, Sec. 1.)

Water/Sewer Tap Fees

<u>Water</u>	<u>City</u>	<u>Outside city</u>
<u>Residential/commercial service</u>		
3/4"	\$400.00	\$600.00
1"	\$550.00	\$880.00
2"	\$850.00	\$1000.00
Larger than 2"	\$850.00 (min. plus actual cost)	
Road bore taps (extra charge if bore can't be done in-house)		
(Ord. No. 2012-1, Sec. 1.)		

The charge for any four-inch residential new connection to the city of Ozark sewer system shall be at a base rate of \$250.00. Such base rate shall include the first 15 feet of sewer line necessary to make the connection from the city sewer main and traversing the area between the city sewer main and the property line of the city's sewer right-of-way or easement shall be the obligation of and paid for by the resident and at a rate of \$10.00 per linear foot. (Ord. No. 2001-9, Sec. 1.)

<u>Sewer</u>	<u>City only</u>
<u>Residential/commercial service</u>	
4"	\$250.00
6"	\$500.00
(Ord. No. 2012-1, Sec. 1.)	

10.08.04 Customer billing

- A. All sanitation customers of the city of Ozark will be billed on a monthly basis, and the bills will be mailed out on or about the first day of each month. All customers who fail to pay the entire amount on or before the 15th day of each month will have their sanitation service terminated. (Ord. No. 2000-11, Sec. 1.)
- B. Monthly billings for water and sewer services shall be made with and as a part of the waterworks billings and payment for water services shall not be accepted without payment for any sewer service due. For failure to pay for sewer services water service will be disconnected.

10.08.05 Payment terms All customers with unpaid bills that have not been paid on or before the 15th day of each month will be notified of their past due status by regular first class mail. All customers with unpaid bills after such due date of the 15th of the month will also be

notified by regular first class mail that their water service will be terminated at the end of the month if payment of the past due charges is not made prior to the end of the month. The notices required by this paragraph will be mailed between the 16th and the 25th day of the respective month. All customers subject to termination of water service will be charged a re-connect fee of Twenty-Five Dollars (\$25.00), and such fee shall be paid prior to restoration of the water service. (Ord. No. 2000-11, Sec. 4.)

Customers may receive a leak adjustment for sewer bills in excess of 20% of their normal average use of the previous six (6) months caused by a leak in their plumbing system. The following conditions apply:

- A. The customer must present an affidavit testifying to the fact that it was indeed a leak, and that it has been repaired. If a licensed plumber completed the repairs, he must sign the affidavit.
- B. If the customer was notified by the utility that a leak on his system was occurring, and repairs were not made within five (5) days of the notification, no credit will be given.
- C. Only one leak adjustment per calendar year may be given. (Ord. No. 94-1, Sec. 4.)
- D. Leak adjustment for customers not hooked up to city sewer. The past six (6) months' bills, including the current bill up for leak adjustment, will be averaged. Only one leak adjustment per year will be allowed. (Ord. No. 2007-10, Sec. 1.)

10.08.06 Termination of water service

- A. Customers who fail to pay the entire amount due by the due date each month will be subject to termination of water service by the last day of the month.
- B. Customers with unpaid bills by the 15th day of the month will be notified of their past-due status by mail. Customers with unpaid bills after the due date will be notified by mail that their water service will be terminated by the end of month if payment is not received. A past due notice and disconnect notice will be mailed after the due date to notify customer of past due status and the respective disconnect date. These notices will be mailed between the 16th and 25th days of each month.
- C. Customers subject to termination of water service will be charged a disconnect fee of Twenty-Five Dollars (\$25.00) for restoration of water service. (Ord. No. 94-1, Sec. 5.)

10.08.07 Reconnection of water service after termination for non-payment Customers desiring restoration of water service after termination for non-payment must first pay the arrears in the full amount, and if the customer has been disconnected once before in the calendar year, the customer must post an additional Fifty Dollars (\$50.00) security deposit, and pay a reconnection fee of Twenty-Five Dollars (\$25.00) for restoration of service. (Ord. No. 94-1, Sec. 6.)

Water will not be turned on if anyone living in the household owes an outstanding bill to the Ozark Water Department. (Ord. No. 2007-10, Sec. 1.)

10.08.08 Meters

- A. Meters will be furnished, installed, owned, inspected, tested, and kept in proper operating condition by the utility without cost to the customer. A complete record of tests and histories of meters will be kept. Meter test will be made according to methods of the American Waterworks Association by the utility as often as deemed necessary.
- B. Service meters whose errors do not exceed 2% fast or slow shall be considered as being within the allowable limits of accuracy for billing purposes. The percentage of error will be considered as that arrived at by taking the average of the error at full load and that at 10% load, unless a customer's rate of usage is known to be practically constant, in which case, the error at such constant use will be used.
- C. Meters shall be set in an accessible location on the outside of buildings, except where otherwise directed by the utility. All meters shall be set horizontally and never connected to a vertical pipe. Meters set outside of a building shall be placed in meter box furnished and installed by the utility.
- D. Meter tests requested by customers will be performed without cost to the customer if the meter is found to be in excess of 2% fast. Otherwise, the customer who requested the test will be charged for the cost of making the test.
- E. The customer shall be responsible for any damage caused by other than normal wear and tear to the meter installed for his/her service. (Ord. No. 94-1, Sec. 7.)

10.08.09 Main extensions In extending a water main to serve an applicant, the utility may, at its discretion, exercise one of the following options:

- A. If construction funds are available, the utility may elect to extend the water main to the customer and charge a normal connection fee and meter deposit.
- B. If limited construction funds are available, the utility may elect to participate on a cost sharing basis as determined by the Council.

- C. In some cases, an assessment district may be created to assist in funding the water main extension, or in retiring the debt incurred. The developer may share in the recoupment on a percentage basis as determined by the Council. If the full cost of the main extension was borne by the developer, the developer may recoup his investment through an assessment district, with the utility collecting a 5% administrative fee on the individual assessments amount. The utility will administer and collect any assessment fees paid under such an arrangement.
- D. The customer or developer may be required to pay for the main extension in full. (Ord. No. 94-1, Sec. 7.)
- E. Any new water or sewer line construction that is an extension or upgrade to the Ozark Water Department System shall conform to the Design Standards for the Construction of Water and Sewer Utilities of the city of Ozark. (Ord. No. 2007-10, Sec. 1.)
- F. Any new water or sewer line construction shall be maintained for up to one year by the installer before it becomes the property of the city of Ozark. (Ord. No. 2007-10, Sec. 1.)

10.08.10 Applicants having excessive needs In the event an applicant whose water requirements are found to exceed the utility's ability to supply it from the existing plant without adversely affecting service to other customers to an unreasonable extent the utility will not be obligated to render such service unless and until suitable self-liquidating financing is arranged to cover necessary investing in expanding the plant. (Ord. No. 94-1, Sec. 8.)

10.08.11 Availability of records for public inspection Utility records, including minutes of meetings and financial records, are available for inspection by the public each working day during office hours. (Ord. No. 94-1, Sec. 9.)

10.08.12 Service charges The utility has set the following service charges:

A.	For normal service connection	\$10.00
B.	For reconnection after termination of service	\$25.00
C.	For returned check	\$15.00
D.	For emergency disconnect	\$10.00
E.	For customer meter test	\$50.00

(Ord. No. 94-1, Sec. 10.)

10.08.13 Rates The lowest rate per 1,000 gallons will be adjusted as necessary to assure the rate is greater than the cost of operation and maintenance per 1,000 gallons. The rates will be reviewed and adjusted periodically to assure adequate repayment ability, reserves, and adequate operation and maintenance costs' Fees for connecting to the System will not be less than the cost to the System. (Ord. No. 2015-4, Sec. 2.)

Water

The following monthly rates and charges which the City Council hereby finds and declares are fair, reasonable and minimum rates to be charged for water services be, and they are hereby confirmed as rates to be charged for services rendered by the system.

The water usage of each customer shall be determined each month by meter measurement and the amount to be paid by each customer shall be computed on the basis for the following schedule of rates:

<u>Residential/commercial</u>	<u>City</u>	<u>Sr. citizens –city</u>	<u>Outside city</u>
First 1,000 gallons	\$6.10	\$4.88 minimum	\$13.89 minimum
Next 29,000 gallons	\$1.61/1000 gal.	\$1.31/1000 gal.	\$2.42/1000 gal.
Over 30,000 gallons	\$1.45/1000 gal.	\$0.99/1000 gal.	\$1.86/1000 gal.

Hydrant meter

First 1,000 gallons	\$30.00 minimum
Over 1,000 gallons	\$1.46/1000 gal.

Bulk users

First 1,000 gallons	\$8.10 minimum
Over 1,000 gallons	\$1.45/1000 gal.

Wholesale users

\$1.23/1000 gal.

Industrial

First 1,000 gallons	\$6.10 minimum
Next 29,000 gallons	\$1.61/1000 gal.
Over 30,000 gallons	\$1.23/1000 gal.

(Ord. No. 2012-1, Sec. 1.)

Sewer

The following monthly rates and charges which the City Council hereby finds and declares are fair, reasonable and minimum rates to be charged for sewer services be, and they are hereby confirmed as rates to be charged for services rendered by the system.

All monthly sewer charges shall be based upon water consumption. The water usage of each customer shall be determined each month by meter measurement and the amount to be paid by each customer shall be computed on the basis for the following schedule of rates:

	<u>City</u>	<u>Sr. citizens</u>
First 1,000 gallons	\$5.02 minimum	\$4.01 minimum
Next 29,000 gallons	\$1.68/1000 gal.	\$1.34/1000 gal.
Over 30,000 gallons	\$1.58/1000 gal.	\$1.24/1000 gal.

(Ord. No. 2012-1, Sec. 1.)

Residential users qualifying for Senior Citizen discountWater life line rate

First 1,000 gallons	\$3.42, min water charge
Next 29,000 gallons	\$1.04 per 1000 gallons
All over 30,000 gallons	\$1.00 per 1000 gallons

Sewer life line rate

First 1,000 gallons	\$3.65, min water charge
Next 29,000 gallons	\$1.22 per 1000 gallons
All over 30,000 gallons	\$.53 per 1000 gallons

Wholesale rates

All gallons	\$.88 per 1,000 gallons
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Out of city customers

First 1,000 gallons	\$8.50, min water charge
Next 29,000 gallons	\$1.70 per 1000 gallons
All over 30,000 gallons (Ord. No. 2001-13, Sec. 2.)	\$1.30 per 1000 gallons

Commercial hydrant usage

First 1,000 gallons	\$10.00, min charge
Next 29,000 gallons	\$ 2.00 per 1000 gallons
All over 30,000 gallons (Ord. No. 2001-13, Sec. 2.)	\$ 1.50 per 1000 gallons

Rate changes All existing water and sewer rates shall be increased as follows:

In-city customers – 6% Out-of-city customers and wholesale customers – 8%

All water and sewer rates shall be raised by the same percentage. The new rate shall be rounded to the nearest whole cent. The increase in rates shall be effective Jan. 1, 2010. (Ord. No. 2009-24, Secs. 1-2.)

10.08.14 Special rates The utility has established a special rate classification for Senior Citizens that qualify with an income below the federal poverty income level. The special rates are contained in 10.08.13 described as Senior Citizen Discount Rates. To qualify for this special rate, the customer must:

- A. Present proof of age and income to the utility;
- B. Have a household income not exceeding the federal poverty level;
- C. Be the head of the household;

- D. Have meter deposit and account in the qualifying individual's name.
(Ord. No. 94-1, Sec. 12.)

10.08.15 Changes These policies are subject to change as required and voted on by the Council. The Council shall establish rates and fees for service as necessary to operate and maintain the utility. (Ord. No. 94-1, Sec. 13.)

10.08.16 Watalula Water Users Association

- A. The city has contracted to provide a supply of treated water to a certain connection of Puddin Ridge Road.
- B. The contract as approved by the City Council in regular meeting on January 14, 2008, agrees to supply water to Watalula Water Users Association for this certain connection on Puddin Ridge Road at a cost of \$1.55 per thousand gallons, to be re-negotiated every two (2) years, if necessary. That the contract is incorporated into this ordinance in its entirety as if set out word for word. (Ord. No. 2008-4, Sec. 1-2.)

CHAPTER 10.12

SEWER AND WATER EASEMENTS

Sections:

- 10.12.01 Easement
10.12.02 Designated lands

10.12.01 Easement The city of Ozark shall designate a permanent water line easement and permanent sanitary sewer easement on lands owned by the city of Ozark for the purpose of construction and maintenance of a water and sanitary sewer line to benefit the Baldor Electric Company. (Ord. No. 94-29, Sec. 1.)

10.12.02 Designated lands The designated water and sewer easements shall be on the following lands, more particularly described in Attachment "A":

Tract A Part of the West Half (W ½) of the Northwest Quarter (NW ¼) of Section 35, Township 10 North, Range 27 West, Franklin County, Arkansas.

Tract B Part of the West Half (W ½) of the Northwest Quarter (NW ¼) of Section 35, Township 10 North, Range 27 West, Franklin County, Arkansas.

Tract C Part of the West Half (W ½) of the Northwest Quarter (NW ¼) of Section 35, Township 10 North, Range 27 West, Franklin County, Arkansas.
(Ord. No. 94-29, Sec. 2.)

CHAPTER 10.16

CROSS-CONNECTION CONTROL PROGRAM

Sections:

10.16.01	General provisions
10.16.02	Administration
10.16.03	Public water systems
10.16.04	Water service lines
10.16.05	Assembly specifications
10.16.06	Assembly installation and inspection
10.16.07	Violations

10.16.01 General provisions This ordinance sets forth the “Ozark Water Department (OWD) Cross Connection Control Program” (the “Program”), and is adopted for the purpose of regulating cross connection hazards and authorizing the operation staff and management of the Ozark Water Department (“OWD”) to administer the program.

Uncontrolled Cross Connections within the water distribution system of the OWD (the “Water System”) are prohibited; OWD is authorized to make inspections of the consumers’ property, in order that Cross Connection hazards be corrected or controlled. (Ord. No. 98-11, Sec. 1.1.)

Purpose The purposes of this ordinance are:

- A. To protect the public potable water supply of the city of Ozark from the possibility of contamination or pollution from backflow into the water system.
- B. To promote the elimination or control of existing cross connections, actual or potential, between the customer’s potable water system(s) and non-potable water systems, plumbing fixtures, and industrial piping systems.
- C. To provide for a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of potable water systems. (Ord. No. 98-11, Sec. 1.2)

Definitions The following terms shall have the stated meanings:

Approving authority means the Manager of the OWD or his designated agent(s).

Auxiliary water supply means any water supply on or available to the property other than the water supply.

AVBA means Atmospheric Vacuum Breaker Assembly.

AWWA means American Water Works Association.

Backflow prevention assembly or ("Assemblies") means a mechanical backflow prevention assembly assembled with shutoff valves, and provided as a complete assembly by a single manufacturer, used to prevent the backflow of contaminants or pollutants into the water system. The assembly must have the approval of the Foundation for Cross-Connection Control and Hydraulic Research at the University of Southern California, the state Department of Health, and the city.

Backflow prevention device means a mechanical device used to prevent the backflow of water.

OWD means the Ozark Water Department.

Bypass means any arrangement of pipes, plumbing or hoses designed to divert the flow around an installed device or assembly through which the flow normally passes.

Certified repair technician means a person certified by the State Department of Health as an assembly repair technician.

Certified testing technician means a person certified by the State Department of Health as an assembly testing technician.

City means the city of Ozark, Arkansas.

Consumer means a "person" or "facility" receiving service from a potable water system.

Contaminant means a biological agent or chemical compound which can cause disease or threat to health.

Cross connection means any actual or potential connection between the water system and a source of contamination or pollution.

Cross connection control means use of backflow prevention assemblies, methods and procedures to prevent contamination or pollution of a potable water supply through cross connections.

Degree of hazard means the relative classification of the danger posed by a particular substance or set of circumstances.

Domestic means plumbing as defined by the state of Arkansas Plumbing Code and is not associated with designated fire protection water service lines and systems.

Double Check Valve Assembly (DCVA) means a backflow prevention assembly consisting of two (2) independently operating check valves, four (4) test cocks, and two (2) shutoff valves. DCVA's are only appropriate for use against non-health hazards. DCVA can be subjected to backpressure.

Detector Double Check Valve Assembly (DDCVA) means a DCVA with an additional, smaller DCVA assembly with a flow detector meter in parallel used to detect system leaks and unauthorized use. Assembly must be shipped as a complete unit.

Detector Reduced Pressure Zone Assembly (DRPZA) means an RPZA with an additional, smaller RPZA with a flow detector meter in parallel used to detect system leaks and unauthorized use. Assembly must be shipped as a complete unit.

Fire protection system means a system consisting of one or more of the following: pipes, sprinklers, valves, fixtures, fittings, ponds, tanks, water storage vessels and fire hydrants that are intended and used exclusively for fire protection.

Hose Bibb Vacuum Breaker (HBVB) For all residential and non-residential hose supply outlets not subject to continuous pressure.

"Hot Box" is the Trade Mark for an above ground backflow prevention assembly enclosure incorporating freeze and vandalism protection features and as used herein is a standard for definition of the type and specification of enclosure.

Inspector means a person authorized by the Approving Authority to perform inspections of consumer's facilities to determine compliance with the ordinance.

Isolation means the actual or physical separation of a specific section of plumbing within a premises by the means of an air gap or mechanical device.

Multiple services means two (2) or more water service connections. When two (2) or more water suppliers are involved, the multiple service connections constitute an auxiliary source of water on the property.

NFPA pamphlets means "National Fire Protection Association" pamphlets.

New construction means construction of a new facility, alteration of or addition to an existing facility, or modification of or addition to existing plumbing and fire protection systems.

Person means any individual, partnership, company, public or private corporation, political subdivision of the United States, or any other legal entity.

Pollutant means a biological or chemical substance which does not pose a health hazard but reduces the aesthetic quality of water.

Pressure Vacuum Breaker Assembly (PVBA) An assembly consisting of an independently operating internally loaded check valve, an independently operating loaded air inlet valve located on the discharge side of the check valve, with properly located resilient-seated test cocks and tightly closing resilient-seated shutoff valves attached at each end of the assembly designed to operate under pressure for prolonged periods of time to prevent backsiphonage. The pressure vacuum breaker may not be subjected to any back pressure.

Program means the Ozark Water Department Cross Connection Program.

Responsible Managing Employee (RME) means an individual or individuals who shall be designated by each company that plans, sells, installs, maintains, or services a fire protection sprinkler system on a full time basis to assure that each fire protection sprinkler system as installed, maintained, or serviced meets the standards as provided by state law.

Reduced pressure zone assembly (RPZA) means a backflow prevention assembly consisting of four (4) test cocks, two (2) shutoff valves and two (2) independently operating spring-loaded check valves with a reduced pressure zone between the check valves. The zone contains a relief port which will open to atmosphere if the pressure in the zone falls within two (2) psi of the supply pressure. The assembly provides protection against both backpressure and back-siphonage.

Retrofit means replacement of an existing device or backflow prevention assembly when the specifications or condition of the device or assembly are not adequate for the degree of hazard found on the property as defined by this program.

Service connection means a piping connection between the water main of OWD and a consumer's system.

UL means Underwriter Laboratories. (Ord. No. 98-11, Sec. 1.2.)

10.16.02 Administration

Authority of Approving Authority The Approving Authority shall administer the program, and may designate individuals to conduct the program.

- A. The Approving Authority is hereby authorized to:
 1. To protect the public potable water distribution system from contamination or pollution due to the backflow or back siphonage through the water service connection.

2. Conduct a program which includes routine inspection of commercial, institutional, industrial establishments, and residential site for possible contamination or pollution.
3. Require installation of a backflow prevention assembly depending on the possible degree of hazard (whether direct or indirect).
4. Review construction plans and determine requirement for backflow prevention assemblies. This shall apply to new construction, alteration or additions, as well as, modification of existing fire protection systems. This authority in no way infringes upon, and is in addition to the authority of the city of Ozark Building Inspector with regard to his duties in plan review and approval.
5. Provide installation criteria for backflow prevention assemblies prior to construction.
6. Conduct final inspection of backflow prevention assembly installations to verify conformance with approved installation plans.
7. Ensure that RPZAs used for fire hydrants are performance tested.
8. Maintain RPZAs and meters for issue to water users needing temporary water service from fire hydrants.
9. Ensure RPZAs used by customers are tested annually and before issue.
10. Verify fire hydrant RPZAs and meters are set and removed by OWD personnel.
11. Submit all required reports, maintain a data base, coordinate with other agencies to accomplish the purposes set forth in paragraph 1.2 and maintain the following records:
 - a. Master files on customer Cross Connection tests.
 - b. Copies of lists and summaries available to the State Health Department.
 - c. Number of annual tests conducted on backflow prevention.
 - d. Number of Cross Connection Control surveys performed.
 - e. Total number of each type of backflow prevention assemblies that are installed.

- f. The following information is required per assembly. DDCVA and DRPZA are made up of two assemblies, each requiring record data.
- (1) Customer's name, mailing address, contact name, assembly address.
 - (2) Type installation, problem history, location on property, and type of service.
 - (3) Name of the manufacturer, model number and serial number of assembly.
 - (4) Type of assembly, date of installation (if available) and installation specifications.
 - (5) Date of initial Cross Connection survey, survey results and type of actual or potential hazard.
 - (6) Test results before and after repair or maintenance and date of latest retest.
 - (7) Maintenance performed, repairs made, replacement parts, date repairs were made.
 - (8) Information on backflows through the assembly.
12. Maintain an inventory of all residential, commercial, institutional and industrial locations with complete information on Cross Connection devices or assemblies installed.
 13. Ensure meters on fire protection assemblies are read and consumer advised of water usage.
 14. Ensure a Certified Assembly Repair Technician is responsible for all repairs performed on an assembly. Installing backflow prevention assemblies within the scope of the plumbing system, shall be in accordance with the Arkansas Plumbing Code.
 15. Verify only Certified Assembly Testing Technicians perform testing on backflow prevention assemblies. (Ord. No. 98-11, Sec. 2.0)

Powers and authorities of Inspectors

- A. The Approving Authority of duly authorized employees of OWD or the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation and testing to verify adherence to the provisions of this program. The Approving Authority or their designated representative shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the determination of the degree of hazard. Authorized personnel shall have authority to inspect and copy records pertaining to the threat of a hazard to the water system.
- B. The consumer's property shall be available for inspection at all reasonable times to authorized representatives of the Approving Authority to determine whether Cross Connections or other structural or sanitary hazards, including violations of the program, exist.
- C. On request by the Approving Authority, the consumer shall furnish information on water use practices within the consumer's premises. (Ord. No. 98-11, Sec. 2.1)

Variance

- A. Request for deviation or relief from any of the provisions of this program shall be submitted in writing to Approving Authority. The Approving Authority may grant a variance if not in conflict with the purpose set out in paragraph 1.2 above.
- B. If a request for deviation has been submitted, the consumer shall not proceed with any construction or installation of assemblies without the written permission of the Approving Authority. (Ord. No. 98-11, Sec. 2.2)

Cross Connection survey Personnel authorized by the Approving Authority will survey the property of consumers considered likely to have Cross Connections to determine if backflow can occur. Routine surveys will be made periodically to determine if backflow prevention measures are maintained, are functioning properly and new Cross Connections have not been created. Information for the review process will be obtained from questionnaires sent to industrial, commercial, institutional, and residential establishments. (Ord. No. 98-11, Sec. 2.3)

Cross Connection inspections The selection of existing property for Cross Connection inspections will be made on the basis of suspected hazard. Those customers suspected of having the most hazardous Cross Connections will be inspected first. Inspections shall continue until all property considered likely to have Cross Connection problems have been inspected.

- A. First priority A first priority inspection list of possible sources of biological or chemical contamination shall be developed. Type of corrective action and follow-up inspection will be according to severity.
- B. Second priority establishment Establishments suspected of lesser degree hazards of biological or chemical pollution will receive second priority inspection by the Approving Authority. (Ord. No. 98-11, Sec. 2.4)

Other surveys As other establishments are found which should be included in one of the priority listings, they will be included and an inspection conducted as workload permits.

Cross Connection surveys will continue with the aim being to inspect all industrial, commercial or institutional type customers and agricultural operations that may pose a hazard. Prompt attention will be given to identifying residential type customers that may have significant Cross Connection problems. (Ord. No. 98-11, Sec. 2.5.)

Follow-up surveys Follow-up surveys will be made as needed.

Inspection frequency All such facilities should be inspected by the Approval Authority on the following schedule:

- A. High hazard – Once per year.
- B. Low hazard – Once every five (5) years.
(Ord. No. 98-11, Sec. 2.7.)

Categories of potential Cross Connection hazards All commercial, institutional, industrial establishments, and residential sites having potential Cross Connection hazards categorized by the Approving Authority into one of the three following categories:

- A. High hazard a condition, device, or practice which is conducive to the introduction of water borne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which presents an unreasonable risk to health.
- B. Low hazard a hazard which does not pose an immediate unreasonable risk to health, which could cause aesthetic problems or have a detrimental effect on the quality of the public potable water supply. (Ord. No. 98-11, Sec. 2.8.)

Enforcement action Where backflow prevention is required, the Approving Authority shall require the problem to be eliminated or controlled by a properly installed, approved backflow prevention assembly. Such protective measures may include, but not be limited to, a backflow prevention assembly on the consumer's water service line. Every effort will be made to secure the voluntary cooperation in correction Cross Connection hazards. If voluntary corrective action can not be obtained within a reasonable period of time, the water service shall be terminated. (Ord. No. 98-11, Sec. 2.9.)

10.16.03 Public water systems The water system shall be protected as outlined in the Arkansas Department of Health publication, "Policies and Procedures for Backflow Prevention Devices Location and Installation" by an approved method of backflow prevention at the point of connection to the water system if a public water supply other than the water system is connected to the water system. Backflow prevention is required regardless of actual development or Cross Connection between the water system and the other public water system.

- A. RPZA containment is required if the other water supply could be subjected to a high hazard, or is not operated under the authority of the Arkansas Department of Health.
- B. DCVA containment is required if the other water supply is being operated under the authority of the Arkansas Department of Health, and the owner of the supply can document that there are no potential high hazards on the premises.
(Ord. No. 98-11, Sec. 3.0.)

10.16.04 Water service lines

General The information on backflow preventers described in this section is extracted from the Department of Health publication, "Policies and Procedures for Backflow Prevention Devices Location and Installation." (June 24, 1979.) (Ord. No. 98-11, Sec. 4.0.)

Costs The consumer of a property shall bear the expense and burden of protecting the water system from the potential hazard through approved backflow prevention methods and procedures. (Ord. No. 98-11, Sec. 4.1)

RPZA containment The water system shall be protected from Cross Connection backflow by an approved RPZA or air gap in water service lines of any:

- A. Building If there is a potential high hazard on the premises of any multi-story building, hotel, apartment house or private structure when a booster pump is used that furnishes water to all or part of the property, or there is the potential for a Cross Connection to a high hazard, or there is a sewage pumping facility on the premises or it is expected that a piping or equipment change might be made that could result in a Cross Connection to a high hazard.
- B. Establishment High hazard types such as, but not limited to, the following types:

- Aircraft plants (with industrial water)
- Automotive plants
- Autopsy facilities
- Breweries
- Beverage bottling plants
- Broiler houses

Canneries (except small plant without industrial fluids)
Car wash facilities
Chemical plants (with industrial water)
Colleges (with laboratories)
Compressed gas handling facilities
Dental facilities
Dye works
Film laboratories
Food preparation facilities
Gravel processing plant
Health clinics
Hospitals
Laundries (excluding laundromats)
Liquid gas handling facilities
Livestock operations (excluding small non-commercial operations without industrial fluids)
Meat packing houses
Medical buildings
Metal plating, etching, passivation or pickling plants
Mines and quarries
Missile plants (without industrial water)
Morgues
Mortuaries
Motion picture studio (with possible industrial water)
Natural gas handling facilities
Nursing homes
Oil handling facilities
Paper and paper product plants (with industrial fluids)
Poultry operations (excluding small non-commercial operations without industrial fluids)
Power plants (excluding small heating or compressing systems)
Pressure vessel repair, testing and maintenance facilities
Radioactive material plants and handling facilities
Reduction plants
restricted, classified or other closed facilities
Rubber manufacturing plants (excluding small retreading plants)
Sand processing plants
Sanitariums
Schools (with laboratories)
Slaughter houses
Tank repair, testing and maintenance facilities
Veterinarian offices and clinics
Water front facilities and industries (excluding premises without docks-cafes, comfort stations, concessions, office buildings, private residences)

- C. Multiple water services If there is a potential for two or more water service lines being interconnected, and there is a potential high hazard on the premises, or the water is used for the other than domestic purposes.
- D. Private water system If there is an auxiliary water supply on or available to the premises that is a potential high hazard, including a fire protection system.
- E. Used waters and industrial fluids If there is a used water or industrial fluid system on the premises that is a potential high hazard.
- F. Solar heating systems If there is a solar heating system on the premises, and chemicals are added to the solar heating system or the solar heating system is not used exclusively for once through heating (i.e., domestic hot water.)
- G. Chemically contaminated water systems If chemicals are used as an additive, to the water, or the water is subjected to additional treatment, or water is used on the premises to transport chemicals or chemicals are used with water on the premises in compounding or processing.
- H. Sewers and storm drains Any premises used for handling sewage or storm water (e.g. treatment and processing facilities, pumping plants, gauging stations, lift stations, ejector plants.)
- I. Public fire hydrants as temporary water services The water system shall be protected by an approved RPZA on the outlet of any fire hydrant when it is used as a water supply, except when used to extinguish a fire.
- J. Irrigation system If there is an irrigation system on the premises.
(Ord. No. 98-11, Sec. 4.2)

DCVA and PVBA containment An approved DCVA or PVBA may be the minimum backflow prevention required in the water service line if the owner can document that there are no potential high hazards on the premises.

- A. Buildings Any multi-story building, hotel, apartment house, public or private structure if a booster pump is used on the premises, or it is expected that a piping or equipment change might be made that could result in a Cross Connection to a low hazard.
- B. Establishments Any establishment containing chemical or biological pollutants.
- C. Interconnected water services If there is a potential for two or more water service lines being interconnected, and all water is used domestically, and only water from the water system is available to the premises.

- D. Private water systems If there is an auxiliary water supply on or available to the premises, including a fire protection system.
(Ord. No. 98-11, Sec. 4.3)

Hose BIBB Vacuum Breaker containment (HBVB) A HBVB device shall be utilized on all premises for isolation an back siphonage only.

Containment not required Backflow prevention shall not be required in the water service line if the owner can document that there are no potential hazards on the premises, that the owner has provided isolation in their facility and the water system complies with al applicable requirements of the city and state of Arkansas, and the water system conforms to one of the following:

- A. Residential systems Used exclusively for domestic purposes, unless the system includes a permanently installed yard sprinkler system.
- B. Solar heating systems Used exclusively for once through heating (i.e., domestic hot water), and no chemical additives are used in the system.
(Ord. No. 98-11, Sec. 4.5)

AWWA classification of fire protection systems

Class 1 – A fire protection system directly connected to the water system as the only water supply – no pumps, tanks or reservoirs; no physical connection to auxiliary water supplies; no anti-freeze or other additives of any kind; all fire protection system drains discharging to atmosphere, dry wells or other safe outlets.

Class 2 – A fire protection system that is the same as a Class 1 system; except that a booster pump is installed in the fire protection system, and no outlet is located between the booster pump and the water system. (Note – Booster pumps alone do not affect the potability of the system. In Class 2 fire protection system, it is necessary to avoid low or negative pressures that can occur by excessive flow through the booster pump. A minimum pressure of 20 psig on the inlet side of the booster pump shall be maintained through proper design, construction, operation and maintenance in addition to the use of a low pressure cutoff switch, pump modulating valve, or other automatic device.)

Class 3 – A fire protection system that is the same as a Class 1 system; except that a storage tank, fir pump that pumps from a covered above-ground reservoir or tank, or pressure tank is connected to the fire protection system. (Note – All storage facilities must be filled only from and connected exclusively to the water system. Furthermore, water in the storage facilities must be maintained in a potable condition.)

Class 4 A fire protection system that is the same as a Class 1 or Class 2 system; except that an auxiliary water supply is on or available to the properties, or there is an auxiliary water

supply designated by the Utilities Department within a radius of 1,700 feet from a pumper connection to the fire protection system. (Note – Connection to an auxiliary water supply cannot exist in a Class 4 fire protection system.)

Class 5 – A fire protection system that is connected to an auxiliary water supply which could be exposed to a high hazard (e.g., non-potable reservoirs, rivers, ponds, wells, industrial water), or that uses additives (e.g., antifreeze, wetting agents, “Foamite”) or that does not maintain a minimum pressure of 20 psig on the inlet side of a booster pump as defined for a Class 2 fire protection system.

Class 6 – A fire protection system that is connected to a water service line from the water system if the water service line is not used exclusively for fire protection. (Ord. No. 98-11, Sec. 4.6.)

Backflow prevention on fire protection systems The water system shall be protected by an approved method of backflow prevention in water service lines to unprotected fire protection systems, regardless of backflow prevention requirements in other water services on the premises.

- A. Classes 1 & 2 An approved DDCVA is required as the minimum backflow prevention in the water service line to a Class 1 or Class 2 fire protection system, if the owner can document that there are no potential high hazards on the premises, and all fire protection system water storage vessels are maintained in a potable condition. An approved DRPZA is required in the water service line to the fire protection system if there is a potential high hazard on the premises.
- B. Class 3 An approved DDCVA is required as the minimum backflow prevention in the water service line to a Class 3 fire protection system, if the owner can document that there are no potential high hazards on the premises, and all fire protection system water storage vessels are maintained in a potable condition. An approved DRPZA is required in the water service line to a Class 3 fire protection system if the industrial or domestic water system could potentially be subjected to a high hazard.
- C. Class 4, 5 & 6 An approved DRPZA is required in the water service line to a Class 4, 5 or 6 fire protection system.
- D. Retrofit of existing systems This applies to an existing fire protection system which is being modified, extended, or enlarged. Such systems include a modification or extension to an existing network such as (distribution piping, sprinkler heads, control valves, etc. are added to an existing system), or where an additional fire protection system (new feed line, riser, control valve, distribution piping, sprinkler heads, etc.) is added to an existing system. If any of the conditions are met the system will be required to be upgraded to meet minimum standards.

- E. The installation of properly sized assembly may cause an excessive pressure loss in some altered Class 1 and 2 systems. Such loss could make the system non-compliance with NFPA pamphlets 13 and 14 as adopted. The Responsible Managing Employee shall document to the Approving Authority that reasonable modifications will not compensate for the additional loss. The documentation shall contain a listing of the minimum flow and pressure, headloss summary, desired and calculated sprinkler head output and a summary of the options examined to reduce headloss. For these installations, if not already installed, the existing Cross Connection Control device will be replaced with two check valves in series (one of which can be the alarm valve), each valve meeting AWWA C508-82, UL 312-88, or UL 193-88, or the latest versions thereof, and equipped with a resilient seating surface. The valves or adjacent piping shall be equipped with a sufficient number of resilient seated test cocks (minimum diameter of one quarter to one-half inch) to determine the effectiveness of each valve (there shall be no leakage past any check valve). Sufficient resilient seated isolation valves – one valve upstream of the valves and one valve downstream of the valves – shall be present or added to the system to permit this testing.
- F. Existing systems Existing fire protection systems, which have no single check valves or alarm valves are required to meet the minimum standards for a Class 1 and 2 fire protection system. The minimum protection for Cross Connection Control for existing systems is the same as listed for new systems, except for existing systems which have a minimum of a single check valve. The check valve must have two resilient seated test cocks installed, one up stream and one downstream of the valve to determine the effectiveness of the valve. The performance testing of the check valve shall be preformed at intervals predetermined by the Approving Authority. Should a check valve fail during any performance test, it will automatically be subject to upgrade to meet the minimum fire protection requirements. Existing fire protection systems which have a Class 4, 5 or 6 rating must have at a minimum a DRPZA installed on either the main riser or it can be installed on the chemically effected section of the piping system. (Ord. No. 98-11, Sec. 4.7.)

Consumer responsibilities The consumer shall:

- A. Eliminate all Cross Connections or install an approved backflow prevention assembly on the water service line.
- B. Immediately correct any malfunction of the backflow prevention assembly.
- C. Inform the Approving Authority of any proposed or modified Cross Connections and of any existing Cross Connections of which the consumer is aware.

- D. Submit construction plans for approval, and install an approved backflow prevention assembly. Failure, refusal, or inability on the part of the customer to install, maintain, and have tested, any backflow prevention assembly on the consumer's property shall constitute grounds for discontinuing water service until such requirements have been satisfactorily met.
- E. Have the type of backflow prevention assembly and manner of installation approved by the Approving Authority.
- F. Install a backflow prevention assembly if a private water source is operational even if it is not Cross Connected to the water system.
- G. Install two (2) backflow prevention assemblies in parallel if uninterrupted water service is desired during testing or repair.
- H. Not install a by-pass around any backflow prevention assembly unless there is a backflow prevention assembly of the same type in the bypass.
- I. Have a certified operational test within ten days of installation. All RPZA's, DCVA's, PVBA's, DRPZA's, and DDCVA's will be tested at intervals not to exceed one (1) year after installation and annually thereafter. In those instances where the Approving Authority deems the degree of hazard to be great, an operational test may be required at more frequent intervals.
- J. Have only personnel licensed by the Arkansas State Health Department accomplish repairs, installation, maintenance and testing of backflow prevention assemblies. Assemblies for fire protection lines tapped from a domestic service line shall meet the same criteria. Repairs shall be made immediately upon notification by the tester. Overhaul shall be accomplished at intervals not to exceed five (5) years. (Ord. No. 98-11, Sec. 4.8.)

Retrofit All presently installed backflow prevention assemblies and devices that do not meet the requirements of this program but were approved assemblies for the purposes described herein at the time of installation and have been properly maintained, shall, except for the inspection, testing and maintenance requirements, be excluded from the requirements of these rules so long as the Approving Authority is assured that they will satisfactorily protect the water system. If the existing assembly is moved, or requires more than the minimum maintenance, or the Approving Authority determines that the operation or maintenance of this assembly constitutes a hazard, the assembly shall be replaced by an approved backflow prevention assembly. (Ord. No. 98-11, Sec. 4.9.)

10.16.05 Assembly specifications

General The following specifications for backflow prevention assemblies shall be utilized.

Backflow prevention assemblies Only those assemblies that are approved by OWD shall be used for backflow prevention in water service lines.

- A. Approved Assembly Assemblies that have been tested and approved by the Foundation for Cross Connection Control and Hydraulic Research at the University of Southern California and certified by the Arkansas Health Department are approved by OWD.
- B. The following information shall be distinctly marked on every RPZA, DCVA, PVBA, DDCVA and DRPZA by cast in the metal, stamped in the metal, or stamped on a brass or stainless steel nameplate permanently affixed to the assembly:
 - 1. Name or trademark,
 - 2. Type (RPZA, PVBA, DDCVA, DRPZA, DCVA),
 - 3. Size,
 - 4. Model number,
 - 5. Direction of flow (indicated by an arrow),
 - 6. Serial number,
 - 7. Maximum working water pressure, and
 - 8. Maximum water temperature for which designed (designate degree R or degree C).
- C. Every RPZA, DCVA, PVBA, DDCVA and DRPZA shall be shipped from the manufacture completely assembled.

10.16.06 Assembly installation and inspection

General Proper installation of backflow prevention assemblies is necessary to adequately protect the water system from backflows.

Authorized installers Installation of backflow prevention assemblies on water service lines shall be accomplished by personnel licensed by the Arkansas Department of Health.

Installation detail

- A. Assembly installation A backflow prevention assembly shall be installed in accordance with the manufacturer's instructions.

1. An assembly shall be installed on the owner's side of the water meter prior to first outlet, unless isolation is used.
2. Piping connected to the assembly shall not be used for electrical grounding.
3. Piping connected to the assembly shall be thoroughly flushed before installing the assembly.
4. An adequate and permanent method of test water disposal shall be provided.
5. A pressure relief valve shall be properly installed and maintained on all water heating apparatus served by the assembly.
6. The assembly installation shall be protected from vandalism and freezing.
7. Adequate support, excluding water lines, shall be provided for assemblies that are 3" or larger.
8. If not part of the approved assembly, an approved strainer should be installed on the inlet side of the assembly prior to the assembly isolation valve, so that all water must pass through the strainer immediately before entering the assembly.
9. An approved blow-off shall be installed on stagnate flow 4-inch or larger water lines immediately after the assembly, to allow for flushing the assembly. Four-inch through ten-inch assemblies shall have a blow-off not less than 2-inches in diameter. Assemblies larger than 10-inch shall have a minimum 4-inch blow-off. Blow-offs installed in vaults shall have piping into the existing vault drain to prevent splashing. Blow-offs in vaults may also be routed above grade and away from the vault, however, a self draining feature must be incorporated to prevent freezing damage to the blow-off piping.
10. If the assembly cannot be installed in the prescribed manner for any reason, the proposed deviations shall be submitted to OWD for review approval before installation.

B. RPZA, DRPZA, DDCVA & DCVA installations

1. The assembly shall not be installed below grade, unless the following criteria can be met and accepted by the Approving Authority:

- a. The vault and its installation shall be approved by OWD before the start of construction. In no case shall the vault be deeper than four (4) feet.
 - b. The vault shall not be subject to flooding.
 - c. The walls of the vault shall extend above the finished grade a minimum of 3" to prevent intrusion of water or dirt.
 - d. The vault shall be water-tight to prevent intrusion of water or dirt.
 - e. The vault shall drain to daylight through an adequate and permanent gravity drain with a slope of at least 1 degree. Installation plans shall show the elevation of the vault floor and the area the water will drain to. Plans shall show drainage pipe depth and location. Drainage pipe size shall be twice the inside diameter of the supply line. Protection on the drainage outlet shall be provided to prevent undesirable creatures from entering.
 - f. The vault cover shall be removable to allow full access to the vault. A minimum of two lifting points shall be provided.
 - g. An access door shall be installed in the vault cover on the testable side of the assembly. Approved doors shall be similar or equal to Bilco or Halladay and shall be a minimum of 24" x 24."
2. Minimum installation clearance dimensions shall be 30 inches between the assembly and corresponding wall and 12 inches on the opposite side, 8 inches on each end, 6 inches above the highest point and 12 inches under the assembly. Top of assembly shall not exceed 72 inches above finished grade. Unless prior approval by control authority.
(Ord. No. 98-11, Sec. 6.2.)

Temporary use assemblies A public fire hydrant used as a temporary water source shall be protected by an RPZA or air gap and metered by a flow meter, which shall be obtained from and installed by the Approving Authority. The consumer shall be charged a deposit and rental for the RPZA and meter and shall pay for water usage. The consumer shall notify the Approving Authority to disconnect the RPZA and meter and return it when no longer needed or at the end of one year, whichever is sooner or the deposit shall be forfeited if the RPZA or flowmeter is not returned. RPZAs and meters shall only be used at the site for which initially intended. (Ord. No. 98-11, Sec. 6.3)

Reporting requirements The consumer shall be responsible for properly filing reports with the Approving Authority for each required backflow prevention assembly. DDCVA and

DRPZA are composed of two unique assemblies, each requiring report submission. In addition to the administrative reports, any failure, removal, modification or replacement of an assembly or suspected backflow shall be reported immediately to the Approving Authority. Performance tests, replacement, repair and maintenance reports shall be filed within fourteen calendar days. (Ord. No. 98-11, Sec. 6.4.)

Records The consumer shall keep records for each assembly. Installation drawings, installer, test reports, manufacturer, model, serial number, date installed, schedule of preventive maintenance, test reports and technical data are the minimum record requirements. These records shall be maintained for a period not less than five (5) years. (Ord. No. 98-11, Sec. 6.5)

Protection of assemblies No person shall maliciously, willfully, or negligently break, damage, destroy, deface or tamper with any structure, appurtenance or equipment which is a part of the backflow prevention assembly or its protective housing.

No person shall cover a backflow prevention assembly vault with earth or pavement, or otherwise render it inaccessible. (Ord. No. 98-11, Sec. 6.6)

Violations

- A. Any consumer found in violation of any of the provisions of the ordinance, shall be served by the Approving Authority with written notice stating the nature of the violation, describing the penalty applicable to the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The consumer may deliver by certified mail to the Approving Authority, within five (5) days of receipt of such notice, a written request for a hearing before the Approving Authority at which hearing the consumer shall be given an opportunity to show cause why the notice should be rescinded or modified.
- B. Any notice issued pursuant to this sub-section may provide a compliance directive mandating procedures to bring the consumer into compliance with the program within the designated time; failure to comply with the compliance directive shall result in termination of water service.
- C. No action to terminate water service shall be final until the Approving Authority has given notice described herein and conducted the show cause hearing, if requested.
- D. However, if the Approving Authority determines that to continue to provide water service will endanger the public health, due to possible contamination of the water system, water service to the property shall be immediately terminated.

- E. Any person violating the provisions of this ordinance shall become liable to the OWD for any expense, loss or damage occasioned the OWD by reason of such violation.
- F. The listing of penalties in this section shall not preclude other appropriate judicial remedies available to OWD for any violation of the program. The OWD may petition any court of competent jurisdiction to grant injunctive or other legal or equitable relief by reason of a violation.
- G. Any person maliciously, willfully, or negligently breaking, damaging, destroying, defacing, or tampering with any structure, appurtenance or equipment which is a part of any backflow prevention assembly or its protective housing, shall be subject to all civil or criminal penalties which may be imposed under any applicable civil or criminal law of the state of Arkansas or the United States of America. (Ord. No. 98-11, Sec. 6.7)

ORDINANCE 2018- 4

AN ORDINANCE AMENDING ORDINANCE NO. 2003-15 ESTABLISHING NEW AND REVISED BUILDING PERMITS AND FOR OTHER PRUPOSES

Whereas the City of Ozark has established a more comprehensive and modern set of building permit fees which are in line with industry practice; and

Whereas it is necessary to amend previous ordinances relating to permits and permit fees for construction within the City of Ozark.

BE IT ORDAIANED BY THE CIY COUNCIL OF THE CITY OF OZARK, ARKANSAS, THAT:

- I. From and after the passage and approval of this ordinance, any person, partnership, firm or corporation responsible for commencing or engaging in the construction, addition, fencing, building, re-roofing, putting in storage buildings or driveways, replumbing, or re-wiring of any building or structure, of any kind or nature inside the city llmits of the city of Ozark, Arkansas, shall apply for and obtain a building permit from the city clerk of the city of Ozark and pay a fee therefore.
- II. The charge for such permit shall be based upon the use designation and in accordance with the attached fee schedule.
- III. Twenty-four-hour notice is required for all inspections.
- IV. It shall be unlawful for any person, partnership, firm or corporation, including non-profit organizations, partnerships, or firms, to fail to obtain such permits or show proof of insurance as provided herein, and any person, partner, firm or corporation violating any provision of the Ordinance shall be deemed guilty of a misdemeanor and subject to a fine of not less than \$100.00 nor more than \$500.00.
- V. If any person, partnership, firm or corporation fails to display their permit on the building site, the city inspector shall order that all construction cease until a permit is displayed.
- VI. The city inspector of the city of Ozark shall make the inspections contemplated herein.
- VII. After the expiration of six months from the date of the initial permit, if constructor is not completed, an addition permit shall be applied for and obtained from the City of Ozark, however there shall be no addition permit fee for the renewal application.
- VIII. All ordinances and parts of ordinances in conflict herewith are hereby repealed, and specifically ordinance 1991-7, 1991-11, 1991-13, and 2003-15 are hereby repealed.
- IX. Should any section or provision of this ordinance be held void or invalid, for any reason, it shall not affect the validity of any other section or provision herein.
- X. It being necessary for the preservation of the public health, welfare, peace and safety, this ordinance shall be in full force and effective immediately upon its passage.

Passed and approved this 9th day of April of April 20183

Mayor T. R. McNutt

Attest:

City Clerk, Sonya Eveld

Permits

(Building - Plumbing - Electrical)

Additional fine for beginning job without permit \$75 Per day.

Building Permit Fees:

R-1 & R-2, Single Family remodel, repair, additions, & alterations:

permit will be based on dollar value

\$50.00 - \$500.00	<u>\$15</u>
\$501.00 - \$1,000.00	<u>\$25</u>
\$1,001.00 - \$1,500.00	<u>\$35</u>
\$1,501.00 - \$2,000.00	<u>\$45</u>
\$2,001.00 - OVER	<u>\$50+Plus</u>

\$1.50 for each additional \$1000 in valuation or fraction there of-

New construction requires 3 inspections @ \$25 each.

Remodel inspections requires 2 inspections @ \$25 each.

Non Residential & Multi-family, commercial, industrial, ETC.

Remodel, repair, additions, & alterations:

permit based on dollar value

\$50.00 - \$500.00	<u>\$15</u>
\$501.00 - \$1,000.00	<u>\$35</u>
\$1,001.00 - \$1,500.00	<u>\$45</u>
\$1,501.00 - \$2,000.00	<u>\$55</u>
\$2,001.00 - OVER	<u>\$55+Plus</u>

\$2.50 For each additional \$1000. Valuation or fraction there of-

Requires 5 inspections @ \$25 each.

Residential & commercial new construction .12 per square ft.

Duplex is now considered commercial construction

Additional fine for beginning job without permit \$75 Per day.

Drive Way Permit \$30.00

Drive way permit on new home includea with building permit

Sign Erection, Repair, Remodel
Same as non- residential fees

Demolition Permits All:

\$1.25 per 100 Sq. ft. of structure plus
\$25.00 water & sewer inspection

Minimum fee: \$50.00

Heat & Air Permits

Heating Unit	\$10
Air conditioning unit	\$10
Heating unit vent	\$5
Fireplace vent	\$5
Heating unit change out	\$10
Condensing unit change out	\$10
Commercial range hood	\$75
Commercial refrigeration unit	\$20
Commercial exhaust unit	\$25
Attic installation	\$15
Crawl space Installation	\$15

Inspection required @ \$25 each.

Extra inspections \$25

Minimum inspections on heat and air installation \$35

Additional fine for beginning job without permit \$75 Per day.

House Moving

Same as demolition

Inspection trips for building permits:

\$25 each

3 inspections required for residential construction.

Roofing Permits @ **\$1.25** per square plus 1
Inspection @ **\$25** each.

Pool Inspections:

Minimum of **\$25.00**

Plumbing and Permit Fees

*Permit based on the following fixture
schedule.*

Commode	\$5
Sinks	\$5
Lavatories	\$5
Showers	\$5
Bath Tubs	\$5
Sewer	\$5
Washing Machine	\$5
Floor Drain	\$5
Dish Washer	\$5
Urinal	\$5
Water	\$5
Hot water heater	\$5
Drinking Fountain	\$5
Gas service	\$5
Grease Traps	\$5

Requires 3 inspections @ \$25 each.

Extra inspection trips @ \$25 each.

Remodel construction requires 2 trips

Additional fine for beginning job without permit \$75 Per day.

Remodel Construction: Requires 2 trips

Gas Inspection outside city limits \$40 (By Request)

Fence Inspection: \$35

Electrical Permit Fees

Fees are per meter

Minimum - 5 circuits @ \$3.50 each

Additional Circuits:

6-20 @ \$2.50 each.

21-42 @ \$2.00 each.

43- Over @ \$1.00 each.

Requires 2 inspections @ \$25 each.

Minimum permit including 2 inspections and meter \$50.00

* Minimum of 1 inspection for the temp pole one circuit \$28.50 ---

* When not part of new construction

Additional fine for beginning job without permit \$75 Per day.

Required Inspections

Commercial	Minimum- 3 trips
Residential	Minimum- 2 trips
Re- Wire	Minimum- 2 trips
Extra Trips	\$25 each

New Meter \$3.50 plus 1 Inspection.

Change Meter \$3.50 plus one inspection.

Mobile home fee \$35

Temporary Pole \$40

**Storm Shelters
\$ 50.00
Includes 2 Inspections**

Signs: same as commercial, remodel & alterations.

Additional fine for beginning job without permit \$75 Per day.

Fire Safety Inspections

3 Inspections are required \$35 each.

Sprinkler Inspection

0-50	\$125.50
51-200	\$251
201-400	\$376.50
401-up	\$251.00/200plus/376.50

Alarm Inspection

1-10 Devices	\$125.50
11-30 Devices	\$251
31-50 Devices	\$376.50
51-up Devices	\$251.00/200plus/376.50

Permits
(Building - Plumbing- Electrical)

Additional fine for beginning job without permit \$75 Per day.

Building Permit Fees:

R-1 & R-2, Single Family remodel, repair, additions, & alterations:

permit will be based on dollar value

\$50.00 - \$500.00	<u>\$15</u>
\$501.00 - \$1,000.00	<u>\$25</u>
\$1,001.00 - \$1,500.00	<u>\$35</u>
\$1,501.00 - \$2,000.00	<u>\$45</u>
\$2,001.00 - OVER	<u>\$50+Plus</u>

\$1.50 for each additional \$1000 in valuation or fraction there of-

New construction requires 3 inspections @ \$25 each.

Remodel inspections requires 2 inspections @ \$25 each.

Non Residential & Multi-family, commercial, industrial, ETC.

Remodel, repair, additions, & alterations:

permit based on dollar value

\$50.00 - \$500.00	<u>\$15</u>
\$501.00 - \$1,000.00	<u>\$35</u>
\$1,001.00 - \$1,500.00	<u>\$45</u>
\$1,501.00 - \$2,000.00	<u>\$55</u>
\$2,001.00 - OVER	<u>\$55+Plus</u>

\$2.50 For each additional \$1000. Valuation or fraction there of-

Requires 5 inspections @ \$25 each.

Residential & commercial new construction 10 per square ft.

Duplex is now considered commercial construction

Additional fine for beginning job without permit \$75 Per day.

Drive Way Permit \$30.00

Drive way permit on new home includea with building permit

Sign Erection, Repair, Remodel
Same as non- residential fees

Demolltion Permits All:

\$1.25 per 100 Sq. ft. of structure plus
\$25.00 water & sewer inspection

Minimum fee: \$50.00

Heat & Air Permits

Heating Unit	\$10
Air conditioning unit	\$10
Heating unit vent	\$5
Fireplace vent	\$5
Heating unit change out	\$10
Condensing unit change out	\$10
Commercial range hood	\$75
Commercial refrigeration unit	\$20
Commercial exhaust unit	\$25
Attic installation	\$15
Crawl space installation	\$15

Inspection required @ \$25 each. }

Extra Inspections \$25

Minimum Inspections on heat and air installation \$35

Additional fine for beginning job without permit \$75 Per day.

House Moving

Same as demolition

Inspection trips for building permits:

\$25 each

3 inspections required for residential construction.

Roofing Permits @ \$1.25 per square plus 1
Inspection @ \$25 each.

Pool Inspections:

Minimum of \$100.00

Plumbing and Permit Fees

*Permit based on the following fixture
schedule.*

Commode	\$5
Sinks	\$5
Lavatories	\$5
Showers	\$5
Bath Tubs	\$5
Sewer	\$5
Washing Machine	\$5
Floor Drain	\$5
Dish Washer	\$5
Urinal	\$5
Water	\$5
Hot water heater	\$5
Drinking Fountain	\$5
Gas service	\$5
Grease Traps	\$5

Requires 3 inspections @ \$25 each.

Extra inspection trips @ \$25 each.

Remodel construction requires 2 trips

Additional fine for beginning job without permit **\$75 Per day.**

Remodel Construction: Requires 2 trips

Gas inspection outside city limits \$40

Fence Inspection: \$35

Electrical Permit Fees

Fees are per meter

Minimum – 5 circuits @ \$3.50 each

Additional Circuits:

6-20 @ \$2.50 each.

21-42 @ \$2.00 each.

43- Over @ \$1.00 each.

Requires 2 inspections @ \$25 each.

Minimum permit including 2 inspections and meter \$50.00

Minimum of 1 inspection for the temp pole one circuit \$28.50

Additional fine for beginning job without permit \$75 Per day.

Required Inspections

Commercial	Minimum- 3 trips
Residential	Minimum- 2 trips
Re- Wire	Minimum- 2 trips
Extra Trips	\$25 each

New Meter \$3.50 plus 1 Inspection.

Change Meter \$3.50 plus one inspection.

Mobile home fee \$35

Temporary Pole \$40

Transformers

Less than 5 KVA	\$6.00
6 KVA – 50 KVA	\$6.00
51 KVA- Over	\$6.00

Signs: same as commercial, remodel & alterations.

Additional fine for beginning job without permit \$75 Per day.

Fire Safety Inspections

3 Inspections are required \$35 each.

Sprinkler Inspection

0-50	\$125.50
51-200	\$251
201-400	\$376.50
401-up	\$251.00/200plus/376.50

Alarm Inspection

1-10 Devices	\$125.50
11-30 Devices	\$251
31-50 Devices	\$376.50
51-up Devices	\$251.00/200plus/376.50

TITLE 11

BUILDINGS AND CONSTRUCTION

Chapters:

- 11.04 Building Permit
- 11.08 Plumbing Code
- 11.12 Fire Prevention Code
- 11.16 Fair Housing
- 11.20 Building Code
- 11.24 Numbering and Naming Streets

CHAPTER 11.04

BUILDING PERMIT

Sections:

- 11.04.01 Building permit
- 11.04.02 Fees
- 11.04.03 Fine
- 11.04.04 Permit displayed
- 11.04.05 City Inspector
- 11.04.06 Additional permits
- 11.04.07 Penalties for interference with equipment

11.04.01 Building permit From and after the passage and approval of this ordinance, any person, partnership, firm, or corporation responsible for commencing or engaging in the construction, addition, fencing, building, re-plumbing, or re-wiring of any building or structure, of any kind or nature, inside the city limits of the city of Ozark, Arkansas, shall apply for and obtain a building permit from the City Clerk of the city of Ozark and pay a fee therefore. (Ord. No. 2003-15, Sec. 1.)

11.04.02 Fees The charge for such permit shall be based upon the use designation listed below and in accordance with the schedule of fees listed below:

Ordinance 2018-6

AN ORDINANCE AMENDING ORDINANCE NO. 2003-15 ESTABLISHING NEW AND REVISED BUILDING PERMITS AND FOR OTHER PURPOSES

Whereas, the City of Ozark has added to ordinance 2003-15 the following:

Ordinance 2003-15 is still valid and enforceable with these additional requirements as adopted in Ordinance 2018-6.

A fine of \$75.00 per day will be assessed on any project started without a permit.

Inspection Schedules for the following:

STORM SHELTERS	\$50.00 (includes 2 trips)
FENCE	\$35.00
POOL	\$25.00
ROOF	\$1.25 per square plus \$25.00 inspection
HOUSE MOVING	1.25/100 SQUARE FOOT plus \$25.00 Water/Sewer Inspection (includes mobile homes)
DRIVEWAY	\$30.00 – Approved by Street Department.

Adopted this day of June 11, 2018

Mayor T. R. McNutt

Attest:

Sonya Eveld, City Clerk

Building Permit & Inspection Schedule

Residential – based on square footage of each family unit or dwelling. If there are multiple units, then each family unit is considered separately.

<u>Building permit</u>	\$0.05 per square foot of heated space
<u>Electrical permit</u>	\$50.00 plus one inspection fee of \$15.00
<u>Plumbing permit</u>	\$50.00 plus one inspection fee of \$15.00
<u>Heat & air permit</u>	\$15.00 for the first unit plus one inspection fee of \$15.00. Each additional unit shall be \$10.00

- A. Inspections required but not covered under permit schedule will be at a charge of \$15.00 per trip.
- B. Inspection required will be in accordance with SBCCI B015.6 schedule. If an inspection is made, but work performed does not meet code, there will be an additional \$15.00 for return inspection. Twenty-four (24) hour notice is required for all inspections.
- C. For all demolition and house moving there will be a \$15.00 water/sewer inspection fee. The mover of a building or structure shall furnish to the city of Ozark proof of insurance to pay for all damage that might result from the moving of said building or structure to or from public or private property in the city of Ozark. (Ord. No. 2003-15, Sec. 2.)

Commercial – based on dollar value

<u>Building permit</u>	\$0 - \$10,000.00	\$15.00 inspection fee
	\$10,001 and greater	\$61.00 plus \$2.00 for each additional \$1000 valuation or fraction thereof
	\$50,001 and greater	\$141.00 plus \$2.00 for each additional \$1000 valuation or fraction thereof
	\$100,000 and greater	\$241.00 plus \$1.50 for each additional \$1000 valuation or fraction thereof
	\$1,000,001 and greater	\$1,591.00 plus \$1.00 for each additional \$1000 valuation or fraction thereof.

- A. For sign erection and repair – same as rates for commercial building permits listed above.
- B. For residential construction consisting of four (4) or more residential units on one piece of property and a part of the same construction project, the commercial permit and inspection fees will apply.
- C. Require inspection @ \$6.00 per trip SBCCI B105.6 schedule.

Electrical permit first 15 circuits @ \$2.50 per circuit
 All circuits over 15 shall be @ \$1.50 per circuit
 Inspections shall be made at \$6.00 per inspection

<u>Plumbing permit</u>	Commode	\$3.00
	Sinks	\$3.00
	Lavatories	\$3.00
	Showers	\$3.00
	Bathtubs	\$3.00
	Sewer	\$2.00
	Washing machine	\$3.00
	Floor drain	\$10.00
	Dishwasher	\$5.00
	Urinal	\$10.00
	Water	\$2.00
	Hot water heater	\$5.00
	Drinking fountain	\$10.00
	Gas service	\$2.00
	Grease trap	\$20.00

- A. Inspections will be made at \$6.00 per inspection.
- B. Inspections required but not covered under permit schedule will be at a charge of \$15.00 per trip.

Heat, air & refrigeration - \$30.00 per unit plus one \$10.00 per ton per unit with a maximum of \$250.00.
 Twenty-four (24) hour notice is required for all inspections.
 (Ord. No. 2003-15, Sec. 2.)

11.04.03 Fine It shall be unlawful for any person, partnership, firm, or corporation to fail to obtain such permits or show proof of insurance as provided herein, and any person, partnership, firm, or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). (Ord. No. 2003-15, Sec. 3.)

11.04.04 Permit displayed If any person, partnership, firm, or corporation fails to display its permit on the building site, the City Inspector shall order that all construction cease until a permit is displayed. (Ord. No. 2003-15, Sec. 4.)

11.04.05 City Inspector The City Inspector of the city of Ozark shall make the inspections contemplated herein. (Ord. No. 2003-15, Sec. 5.)

11.04.06 Additional permits After the expiration of six (6) months from the date of the initial permit, if construction is not completed, an additional permit shall be applied for and obtained from the city of Ozark, however, there shall be no additional permit fee for the renewal application. (Ord. No. 2003-15, Sec. 6.)

11.04.07 Penalties for interference with equipment

- A. It shall be unlawful for any person or persons to in any way tamper with, harm or destroy the meters, valves, regulators, transmission or distribution lines, or any of the appurtenances therein attached or other property of any person, firm, commission or corporation, which is legally authorized to serve the inhabitants of the city of Ozark with natural or artificial gas, electric energy or water for domestic, commercial or industrial purposes. (Ord. No. 241, Sec. 1.)
- B. It shall be the duty of the proper authorities of the city of Ozark to arrest and try such person or persons, who may come before them charged with the violation of this ordinance and upon being found guilty, they shall be fined One Hundred Dollars (\$100.00), together with such costs as may be incurred in the matter. (Ord. No. 98-20, Sec. 1.)

CHAPTER 11.08

PLUMBING CODE

Sections:

11.08.01	Definitions
11.08.02	State code
11.08.03	Plumbing Inspector
11.08.04	Permit
11.08.05	Bond required
11.08.06	Street openings
11.08.07	Penalties

11.08.01 Definitions

Plumbing is defined as the definitions of Act 200 of the 1951 of Arkansas and the Arkansas State Plumbing Code. (Ord. No. 112, Sec. 1.)

11.08.02 State code The provisions and regulations of the Arkansas State Plumbing Code, and amendments thereto, adopted by the State Board of Health of Arkansas are hereby made a part of this ordinance by reference, three (3) certified copies of which shall be on file in the office of the City Recorder, and shall extend over and govern the installation of all plumbing installed, altered or repaired in the city of Ozark, Arkansas. (Ord. No. 112, Sec. 2.)

11.08.03 Plumbing Inspector

- A. There is hereby created the position of Plumbing Inspector who shall be appointed by the Mayor, subject to confirmation by the City Council.
- B. The Plumbing Inspector shall receive as full compensation for his services as such inspector, seventy-five percent (75%) of all plumbing inspection fees collected by the city.
- C. The Plumbing Inspector shall have experience in the business of plumbing to the extent that enables him to know when plumbing is installed in accordance with the provisions of the code. He shall not be connected in any way with any person, firm or corporation directly or indirectly engaged in the business of plumbing or plumbing supplies.
- D. It shall be the duty of the Plumbing Inspector to enforce all provisions of this ordinance and the Plumbing Inspector is hereby granted the authority to enter all buildings in the city of Ozark, in the performance of his duties, between the hours of 8:00 a.m. and 5:00 p.m. daily. The Plumbing Inspector shall issue permits for plumbing work as herein provided and shall prepare suitable forms for applications, permits and other reports.
- E. It shall be the duty of the Plumbing Inspector to inspect and test all plumbing work for compliance with the code. (Ord. No. 112, Sec. 3.)

11.08.04 Permit

- A. Before beginning any plumbing work in the city of Ozark, the person installing same shall apply to the Plumbing Inspector, or other designated official, and obtain a permit to do such work. Only those persons authorized to do plumbing may be issued permits. A permit may be issued to a property owner to install plumbing in a single family residence provided the property owner does the work himself and the building is owned and occupied by such owner as his home.

- B. Application for permits shall be made on suitable forms provided by the Plumbing Inspector. The application shall be accompanied by fees in accordance with the following schedule:

Plumbing roughing-in inspection	\$1.00
Each plumbing fixture and waste discharge device	.50
New or reconstructed sewer connection	\$1.00
Each septic tank	\$2.00
For final certificate on inspection	\$1.00

An additional fee of \$2.00 shall be charged for each additional trip on the part of the Plumbing Inspector, caused by the negligence of the plumber, which shall be paid by the plumber without charge to the property owner. (Ord. No. 112, Sec. 4.)

11.08.05 Bond required Every master plumber doing business in the city of Ozark shall execute and deliver to the city bond with a surety bonding company in the sum of \$1,000.00 to indemnify the city, or any citizen, for any damage caused by the failure of such master plumber to comply strictly with the provision of this ordinance. No plumbing permit shall be issued to any master plumber unless this bond has been delivered to the city and is in full force and effect. (Ord. No. 112, Sec. 5.)

11.08.06 Street openings

- A. All openings made in the public streets, alleys or sidewalks to install plumbing must be made as carefully as possible and all materials excavated from the trenches shall be removed or placed where the least inconvenience to the public will be caused.
- B. All openings must be replaced in precisely the same condition as before the excavation started and all rubbish and material must be removed at once, leaving street, alley or sidewalk clean and in perfect repair.
- C. All openings shall be marked with sufficient barriers. Flares or red lamps shall be maintained around the opening at night and all other precautions shall be taken by the plumber or excavator to protect the public from damage to person or property. (Ord. No. 112, Sec. 6.)

11.08.07 Penalties Any person, firm or corporation found guilty of violating any of the provisions of this ordinance shall be subject to a fine of not less than Ten Dollars (\$10.00), not more than One Hundred Dollars (\$100.00), together with the costs of such prosecution. Each day during which the violation continues shall be a separate offense. (Ord. No. 112, Sec. 7.)

CHAPTER 11.12

FIRE PREVENTION CODE

Sections:

- 11.12.01 Municipal Fire Marshal
- 11.12.02 Powers

11.12.01 Municipal Fire Marshal For purposes of this ordinance, Municipal Fire Marshall means a person who hold a full time office or position of fire marshal created by ordinance in a city of the first class and who:

- A. is responsible for the detection and prevention of arson, the enforcement of laws relating to arson and other burning, and enforcement of the city and state Fire Prevention Codes; and
- B. has successfully completed a course of study for law enforcement officers approved by the Arkansas Commission on Law Enforcement Standards and Training; and
- C. has successfully completed an eighty (80) hour fire/arson investigation course offered by the National Fire Academy or the Arkansas Fire Training Academy or an equivalent course; and
- D. has completed a one (1) week fire safety inspection class offered by the National Fire Academy or the Arkansas Fire Training Academy or an equivalent class. (Ord. No. 2008-10, Sec. 1.)

11.12.02 Powers A municipal Fire Marshal is hereby authorized and empowered to carry a weapon and to make arrests for violations of the laws relating to arson and other unlawful burning. (Ord. No. 2008-10, Sec. 2.)

CHAPTER 11.16

FAIR HOUSING

Sections:

- 11.16.01 Command
- 11.16.02 Administration
- 11.16.03 Education

- 11.16.04 Complaint procedure
- 11.16.05 Enforcement and penalty

11.16.01 Command The United States Congress has declared that all citizens of the United States shall have the same right in every state and territory, thereof to inherit, purchase, lease, sell, hold, and convey real and personal property and has, thereby, declared fair and open housing to be the law of the land. It is hereby declared that the policy of the city of Ozark is to adhere to, comply with, and enforce all laws prohibiting discriminatory policies and practices based on race, color, sex, creed, or natural origin in relation to both the private and public sectors of the housing industry in the city of Ozark. Specifically, it is hereby declared to be the intention and purpose of the city of Ozark to comply with and enforce all provisions of law dealing with fair and open housing and non-discrimination in relation to local housing. The following acts are prohibited:

- A. discrimination in the sale or rental of housing,
- B. discrimination in the financing of housing, and
- C. discrimination in the provision of brokerage services.
(Ord. No. 294, Sec. 1.)

11.16.02 Administration The designated official to whom complaints shall be made is the Mayor of Ozark, Gary Briley, at City Hall, Ozark, Arkansas. (Ord. No. 294, Sec. 2.)

11.16.03 Education The designated official shall initiate such educational activities as in his judgment will further the purposes of this ordinance. (Ord. No. 294, Sec. 3.)

11.16.04 Complaint procedure The designated official will receive information concerning alleged violations from any person. Such person may file a complaint no later than thirty (30) days after the alleged discriminatory housing practice occurred. The complaint should contain written information sufficiently precise to identify the parties and describe generally the action or practice complained of. Within thirty (30) days after a complaint is filed, the designated official shall investigate the complaint and give notice in writing to the person aggrieved and to the respondent. (Ord. No. 294, Sec. 4.)

11.16.05 Enforcement and penalty If possible, the designated official will proceed to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Any person, firm or corporation who shall violate any provision of this ordinance by doing any act prohibited or declared to be unlawful thereby, or declared to be an offense or misdemeanor thereby, or who shall fail to do any act required by any such provision, or who shall fail to do any act such provision declares such failure to be unlawful or to be an offense or misdemeanor shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00), including costs. Each day upon which any such violation continues shall constitute a separate misdemeanor. (Ord. No. 294, Sec. 5.)

CHAPTER 11.20

BUILDING CODE

Sections:

- 11.20.01 Adopted
- 11.20.02 Energy code

11.20.01 Adopted It is ordained by the city of Ozark, Arkansas, that the following codes are hereby adopted by reference as though they were copied herein fully:

Standard Amusement Device Code – 1997 Edition
Standard Building Code – 1997 Edition
Standard Existing Buildings Code – 1997 Edition
Standard Fire Prevention Code – 1997 Edition
Standard Gas Code – 1997 Edition
Standard Housing Code – 1997 Edition
Standard Mechanical Code – 1997 Edition
Standard Plumbing Code – 1997 Edition
Standard Swimming Pool Code – 1997 Edition
Standard Unsafe Building Abatement Code – 1985 Edition
National Fire Protection Code – 1999 Edition
(Ord. No. 99-21, Sec. 1.)

11.20.02 Energy code There is hereby adopted by the City Council of Ozark, Arkansas, for the purpose of establishing rules and regulations for energy efficient standards for new building construction, this code known as the 1994 Arkansas Energy Code, being particularly the 1994 edition thereof, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies have been and now are filed in the office of the Clerk or Recorder of the city of Ozark, Arkansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures, therein contained within the corporate limits of the city of Ozark, Arkansas. (Ord. No. 95-16, Sec. 1.)

CHAPTER 11.24

NUMBERING AND NAMING STREETS

Sections:

- 11.24.01 Baselines

11.24.02	Address numbers
11.24.03	Official address map
11.24.04	Assignment of numbers
11.24.05	Alignment of streets for numbering purposes
11.24.06	Display of numbers
11.24.07	Enforcement
11.24.08	Penalty

11.24.01 Baselines A system of baselines for numbering and naming the city's streets is established as follows:

- A. North/south baseline The north/south baseline shall be First Street from the Missouri Pacific Railroad north to Market Street, and from thence it shall run in a northerly direction one block east of Second Street, as shown on the official address map. From this line eastward and westward, beginning with the 100 block, addresses along east/west streets shall increase by 100 for each block as shown on the official address map. Names of east/west streets running east of the north/south baseline shall have the prefix "East" and those running west of the baseline shall be designated "West."
- B. East/west baseline The east/west baseline shall be Commercial Street, running from the east city limits at Church Drive, westward to its intersection with Citadel College Road, and thence westward in a straight line as shown on the official address map. Addresses shall increase along north/south streets 100 for each block north and south of this baseline, beginning with the 100 block, and as shown on the official address map. North/south streets north of this baseline shall require a "North" designation in their names and those south of the line shall require a "South" designation. (Ord. No. 270, Sec. 1.)

11.24.02 Address numbers Lots of under 100 foot frontage shall require an interval of two numbers between lots. For larger lots, numbers shall increase at an interval of two for each 75 feet of frontage, more or less. In commercially-zoned districts, for numbering purposes, lots shall be a maximum of 50 feet.

Odd and even numbers Facing westward from the north/south baseline, even numbers shall be on the right side of the street, and odd numbers on the left side of the street. Similarly, on north/south streets, even numbers shall be on the right, and odd numbers on the left as one has his back to the east/west baseline.

Apartments and mobile parks Apartment projects and mobile home parks shall be given one primary street address, with each individual apartment unit or mobile home given a number based on the project's internal numbering system. (Ord. No. 270, Sec. 2.)

11.24.03 Official address map Attached hereto, and to be considered as a part of this ordinance, is a map setting forth the system of address ranges for the various lots within the city, said map to be known as the Official Address Map, and to be displayed for public inspection at the office of the Ozark City Clerk. (Ord. No. 270, Sec. 3.)

11.24.04 Assignment of numbers It shall be the duty of the City Clerk to assign numbers to structures based upon the system set forth in this ordinance. All assigned numbers shall be displayed upon the official address map. New numbers shall be assigned at the time when application is made for a building permit. No building permit shall be issued until a proper address is assigned.

For land subdivided after the enactment of this ordinance, it shall be required of the subdivider to file a plat of the proposed subdivision with the City Clerk, who shall then proceed to assign numbers for each lot within the subdivision in accordance with the system established by this ordinance, and said subdivision, with the lots and numbers assigned thereto, shall be posted on the official address map. (Ord. No. 270, Sec. 4.)

11.24.05 Alignment of streets for numbering purposes For the purpose of providing addresses, a north/south street shall be considered a street whose alignment is predominately to the north and south. Similarly, an east/west street shall be considered a street whose alignment is predominately to the east and west. Where there are streets that are diagonal, it shall be the duty of the Building Inspector to determine for address purposes the alignment of the street. (Ord. No. 270, Sec. 5.)

11.24.06 Display of numbers Each owner of a dwelling or business shall be required to post that structure's assigned number in the following manners:

Residences Numbers shall be at least three (3) inches in height, shall be posted within two (2) feet of the front door of the structure, and shall be highly visible from the street. In cases where the structure is not clearly visible from the street, the numbers may be posted on a gate or fence, or in any manner in which the numbers can be highly visible from the street.

Businesses Businesses shall be required to post numbers within two (2) feet of the principal entrance of the structure. Numbers, which shall be a minimum of three (3) inches in height, can be reflective decals on structures which are predominately glass or metal. In all instances, numbers are required to be highly visible from the street.

Mobile homes and mobile home parks Numbers for mobile homes shall be at least three (3) inches in height and shall be posted in a manner highly visible from the street. For mobile home parks, it shall be required of the park owner to post lot numbers, or not less than three (3) inches in size, on each occupied lot, and in such a manner as to be clearly visible from the street. (Ord. No. 270, Sec. 6.)

11.24.07 Enforcement No property shall be allowed to connect to the city's water and sewer system until said property shall have been assigned a number in accordance with the provisions of this ordinance; neither shall a building permit for a new structure be valid until an address has been assigned in accordance with the provisions of this ordinance. (Ord. No. 270, Sec. 8.)

11.24.08 Penalty Any person, firm, partnership, or corporation, responsible for complying with the city of Ozark Ord. No. 270 that fails to comply with such ordinance shall be deemed guilty of a misdemeanor and fined the sum of Fifty Dollars (\$50.00) for the first offense, and Two Hundred Fifty Dollars (\$250.00) for each subsequent offense.

The residents of the city of Ozark that are responsible for complying with the city of Ozark Ord. No. 270 shall have until the 1st day of December, 1991, to comply with the provisions of the city of Ozark Ord. No. 270. (Ord. No. 91-19, Secs. 1-2.)

TITLE 12

PARKS AND RECREATION

Chapters:

- 12.04 Parks and Recreation Commission
- 12.08 Rules and Regulations for Hudspeth Lake/Ozark City Lake

CHAPTER 12.04

PARKS AND RECREATION COMMISSION

Sections:

- 12.04.01 Established
- 12.04.02 Members
- 12.04.03 Powers and duties

12.04.01 Established There is hereby created and established a Commission consisting of five (5) members, to be known as the Parks and Recreation Commission. (Ord. No. 91-4, Sec. 1.)

12.04.02 Members

- A. The members shall be appointed by the Mayor of the city of Ozark with confirmation of the appointments by the City Council of the city of Ozark.
- B. The original five (5) members shall be appointed to terms of one (1), two (2), three (3), four (4), and five (5) years so that one commissioner's term will expire each year. Terms of office thereafter shall be for five (5) years. All vacancies shall be filled for the unexpired terms of the member whose office is vacant in the same manner as such member received the original appointment.
- C. The members of said Parks and Recreation Commission shall be qualified electors of the city of Ozark.

- D. After a member of the Commission fails to attend three (3) consecutive meetings, unless excused by the vote of said Commission his membership shall automatically terminate, and his successor shall be appointed in the same manner as his predecessor. A member of the Commission may be removed from office by two thirds (2/3) vote of the City Council of the city of Ozark.
- E. All of the members of said Commission shall serve without compensation. Members may be reimbursed for their actual expenses, including travel, lodging, and meal expenses incurred while on official business of the Commission, which has had prior approval by the City Council of the city of Ozark.
- F. Immediately after appointment and qualification, until their successors qualify, the Commission shall organize by electing a chairman, vice-chairman, and a secretary.
- G. Meetings shall be held as needed. Any three (3) members of the Commission may call a meeting after giving seven (7) or more day's notice of such a meeting to all members. Three (3) members shall constitute a quorum for the transaction of business. (Ord. No. 91-4, Sec. 2.)

12.04.03 Powers and duties The Commission shall have the following powers and duties:

- A. Act in an advisory capacity to the City Council of the city of Ozark in promoting, aiding, encouraging and conducting public recreation, including the development of recreation and park facilities and programs.
- B. Act in advisory capacity to the City Council of the city of Ozark in planning maintenance, development and operation of all recreation areas and facilities owned, controlled or leased by the city.
- C. Formulated and recommended to the City Council of the city of Ozark general policies related to the purposes of the Commission and adopt by laws, rules and regulations, subject to the approval of the City Council of the city of Ozark, as the Commission may require to facilitate the operation of a recreation and parks system.
- D. At the request of the Mayor, cause a budget to be prepared and submitted to the City Council of the city of Ozark annually on or before November 1, providing for the costs of maintenance and operation of the recreation and park facilities and programs for the ensuing year. The budget shall contain estimates and recommendations for such long term capital outlay projects as may be necessary to provide for an orderly development of recreation and parks areas and facilities.

- E. Study and make recommendations on the acquisition and development of recreation areas and facilities such as pavilions, ball fields, playgrounds, parks, campsites, concessions and other centers of recreation.
- F. Interpret the function and operation of recreation and parks services to public officials and to the general public to the end that the services receive adequate financial support from the public and private sources. (Ord. No. 91-4, Sec. 3.)

CHAPTER 12.08

RULES AND REGULATIONS FOR HUDSPETH LAKE/OZARK

CITYLAKE

Sections:

12.08.01 Adopted by reference

12.08.01 Adopted by reference The document entitled "Rules and Regulations Hudspeth Lake/Ozark City Lake" and setting forth misdemeanor penalty provisions for violations is hereby incorporated herein and adopted by reference as if set forth herein word for word. (Ord. No. 2002-9, Sec. 1.)

TITLE 13

PLANNING

Chapters:

13.04 Planning Commission

CHAPTER 13.04

PLANNING COMMISSION

Sections:

13.04.01	Created
13.04.02	Duties
13.04.03	Appointed
13.04.04	Terms

13.04.01 Created There is hereby created a Commission of the city of Ozark, Arkansas, to be known as the City Planning Commission, which said Commission shall consist of seven (7) members who shall serve without compensation and of whom not more than two (2) may hold any other municipal office or appointment. All Commissioners must be qualified electors of the city of Ozark, Arkansas. (Ord. No. 98-6, Sec. 1.)

The ordinary members of the Planning Commission shall continue to serve without compensation. However, the chairman of the Planning Commission shall be entitled to the sum of Fifty Dollars (\$50.00) per month as compensation for the chairman's services. (Ord. No. 97-3, Sec. 3.)

13.04.02 Duties The City Planning Commission shall have all the duties and functions as pertaining to Planning Commission as conferred upon the city for planning as provided by Act. 186 of the Acts of Arkansas 1957 as amended. (Ord. No. 135, Sec. 2.)

13.04.03 Appointed The members of the City Planning Commission shall be named and appointed by the Mayor and his appointments will be valid and effective upon confirmation of the City Council. (Ord. No. 135, Sec. 3.)

13.04.04 Terms

- A. The terms of the members of the City Planning Commission shall be two members for one (1) year, two members for two (2) years, and two members for three (3) years. The Mayor shall designate the terms of the initial appointments. (Ord. No. 135, Sec. 4.)
- B. One additional member shall be appointed. The term of the new member of the Planning Commission shall be for three (3) years. (Ord. No. 98-6, Sec. 2.)
- C. Pursuant to A.C.A. 14-42-109, any member of the Planning and Zoning Commission may be removed from that position upon a majority vote of the City Council of the city of Ozark. (Ord. No. 99-2, Sec. 1.)

ORDINANCE 2018- 10

AN ORDINANCE AMENDING ORDINANCE NO. 2003-15 ESTABLISHING NEW AND REVISED BUILDING PERMITS AND FOR OTHER PRUPOSES

Whereas the City of Ozark has established a more comprehensive and modern set of building permit fees which are in line with Industry practice; and

Whereas it is necessary to amend previous ordinances relating to permits and permit fees for construction wlthin the City of Ozark,

BE IT ORDAIANED BY THE CIY COUNCIL OF THE CITY OF OZARK, ARKANSAS, THAT:

- I. From and after the passage and approval of this ordinance, any person, partnership, firm or corporation responsible for commencing or engaging in the construction, addition, fencing, building, re-roofing, putting in storage buildings or driveways, replumbing, or re-wrlng of any building or structure, of any kind or nature inside the city ilmlts of the city of Ozark, Arkansas, shall apply for and obtain a building permit from the city clerk of the city of Ozark: and pay a fee therefore.
- n. The charge for such permit shall be based upon the use designation and in accordance with the attached fee schedule.
- III. Twenty-four-hour notice is required for all inspections.
- IV. it shall be unlawful for any person, partnership, firm or corporation, including non-profit organizations, partnerships, or firms, to fail to obtain such permits or show proof of insurance as provided herein, and any person, partner, firm or corporation violating any provision of the Ordinance shall be deemed guilty of e misdemeanor and subject to a fine of not less than \$100.00 nor more than \$500.00.
- V. If any person, partnership, firm or corporation fails to display their permit on the building site, the city inspector shall order that all construction cease until a permit is dlsplayed.
- VI. The city inspector of the city of Ozark shall make the Inspections contemplated herein,
- VIE. After the expiration of six months from the date of the initial permit, if constructlor is not completed, an addition permit shall be applied for and obtained from the City of Ozark, however there shall be no addition permit fee for the renewal application.
- VIII. All ordinances and parts of ordinances in conflict herewith are hereby repealed, and specifically ordinance 1991-7, 1991-11, 1991-13, and 2003-15 are hereby repealed. IX. Should any section or provision of this ordinance be held void or invalid, for any reason, it shall not affect the validity of any other section or provision herein.
- x. It being necessary for the preservation of the public health, welfare, peace and safety, this ordinance shall be in full force and effective Immediately upon its passage.

Passed and approved this 9th day of April of April 20183

**Non Residential & Multi-family, commercial, industrial,
ETC.**

Remodel, repair, additlons, & alterations:

permit based on dollar value

\$50.00	\$500.00	\$501.00.	\$1,000.00	\$85
•\$1,001.00			\$1,500.00	\$45
\$1,501.00			\$2,000.00	\$85
\$2,001.00 - OVER			- OVER	\$55+Plus

\$2.9 For each additional Valuation or fraction there of Reqlres

5 Inspectlons @ \$25 each,

Residential & commercial new constructlon per square ft.

*Additional fine
for beginning
Job without
permit

Per day.

day.*

Additional fine for beginning job without permit \$75 Per day.

House Moving

***Same as demolltlon ***

Inspection trips fot building permlts.:
\$.25 each
3 Inspections required for residential
construction.

Roofing Permits @ \$1.25 per square Pius 1 Inspection @ each.

Pool Inspections:

Minlmum of ,00

Electrical Permit Fees

Fees are per meter

Minimum — 5 circuits @ \$3.50 each

Additional Circuits:

6-20 @ \$2.50 each.

21-42 @ \$2.00 each.

43. over @ \$1.00 each.

Requires 2 Inspections @ \$25 each.

Minimum permit Including 2 inspections and meter \$50.00

Minimum of 1 Inspection for the temp pole one circuit \$28.50

** When not part*

Construction

Additional fine for beginning job without permit \$75 Per day.

Required Inspections

Commercial Minimum- 3 trips

Residential Minimum- 2 trips

Re- Wire Minimum- 2 trips

Extra Trips \$25 each

New Meter \$3.50 plus 1 inspection.

Change ~~meter \$3.50~~ plus one inspection,

Mobile home fee \$35

Temporary Pole \$40

**Non Residential & Multi-family, commercial, industrial,
ETC.**

Remodel, repair, additions, & alterations:

permit based on dollar value

\$50.00 - \$500,00 \$15

\$501.00 - \$1,000.00

•SIR01.00 \$1,500.00\$4E \$1,501.00 -
\$2,000.00\$5

\$2,001.00 - OVER

\$2.50 For each additional \$1000. Valuation or fraction there

Requires 5 Inspections @ \$25 each.

Residentlat & commercial new construction 10 per square ft.

Additional fine for beginning job without permit \$75 Per day.

Drive way Permit \$30.00

Drive way permit on new home include with building per.mlt.

**Sign Erectlon, Repair, Remodel
Same as non- residential fees**

Demolition Permits All:

\$1.25 per 100 Sq. ft. of structure plus
\$25.00 water & sewer inspection

Minimum fee: \$300.00

Heat & Air Permits

Heating Unit	\$10
Air conditioning unit	\$10
Heating unit vent	\$5
Fireplace vent	\$5
Heating unit change out	\$10
Condensing unit change out	\$10
Commercial range hood	\$75
Commercial refrigeration unit	\$20
Commercial exhaust unit	\$25
Attic Installation	\$15
Crawl space Installation	\$15

Inspection required @ \$25 each.

Extra Inspections \$25

Minimum Inspections on heat and air Installation \$35

Plumbing and Permit Fees

Permit based on the following
fixture schedule.

Commode	\$5
Sinks	\$5
Lavatories	\$5
Showers	\$5
Bath Tubs	\$5
Sewer	\$5
Washing Machlne	\$5
Floor Drain	\$5
Dish Washer	\$5
Urlnal	\$5
Water	\$5
Hot water heater	\$5
Drinking Fountaln	\$5
Ga\$ service	\$5
...Grease Traps	\$5

Requres 3 Inspections @ \$25 each.

Extra Inspection trips @ \$25 each.

Remodel construction requires 2 trlps

Additional fine for beginning job without permit \$75 Per day.

Remodel Construction: Requires 2 trips

Gas inspection outside city limits \$40

Fence Inspection: \$35

Transformers

Less than 5 KVA	\$6;00
6 KVA	\$6.00
51 KVA- Over	\$6.00

Slens: same as commercial, remodel & alterations.

Additional fine for beginning job without permit \$75 Per day.

Fire Safety Inspections

3 Inspections are required \$35 each.

Sprinkler Inspectlon

0-50	\$aas.so
51-200	\$251
201-400	\$376.50
401-up	\$251.00/200plus/37e«5C

Alarm Inspectlon

1-10 Devices	\$12s.so
11-30 Devices	\$251
31-50 Devices	\$376,50
51-up Devices	\$251.00/200pius/376.50

ORDINANCE 2018- 10

AN ORDINANCE AMENDING ORDINANCE NO. 2003-15 ESTABLISHING NEW AND REVISED BUILDING PERMITS AND FOR OTHER PRUPOSES

Whereas the City of Ozark has established a more comprehensive and modern set of building permit fees which are in line with Industry practice; and

Whereas it is necessary to amend previous ordinances relating to permits and permit fees for construction wltin the City of Ozark,

BE IT ORDAIANED BY THE CIY COUNCIL OF THE CITY OF OZARK, ARKANSAS, THAT:

- I. From and after the passage and approval of this ordinance, any person, partnership, firm or corporation responsible for commencing or engaging in the construction, addition, fencing, building, re-roofing, putting in storage buildings or driveways, replumbing, or re-wiring of any building or structure, of any kind or nature inside the city limits of the city of Ozark, Arkansas, shall apply for and obtain a building permit from the city clerk of the city of Ozark: and pay a fee therefore.
- n. The charge for such permit shall be based upon the use designation and in accordance with the attached fee schedule.
- III. Twenty-four-hour notice is required for all inspections.
- IV. It shall be unlawful for any person, partnership, firm or corporation, including non-profit organizations, partnerships, or firms, to fail to obtain such permits or show proof of insurance as provided herein, and any person, partner, firm or corporation violating any provision of the Ordinance shall be deemed guilty of a misdemeanor and subject to a fine of not less than \$100.00 nor more than \$500.00.
- V. If any person, partnership, firm or corporation fails to display their permit on the building site, the city inspector shall order that all construction cease until a permit is displayed.
- VI. The city inspector of the city of Ozark shall make the inspections contemplated herein,
- VIE. After the expiration of six months from the date of the initial permit, if construction is not completed, an addition permit shall be applied for and obtained from the City of Ozark, however there shall be no addition permit fee for the renewal application.
- VIII. All ordinances and parts of ordinances in conflict herewith are hereby repealed, and specifically ordinance 1991-7, 1991-11, 1991-13, and 2003-15 are hereby repealed. IX. Should any section or provision of this ordinance be held void or invalid, for any reason, it shall not affect the validity of any other section or provision herein.
- x. It being necessary for the preservation of the public health, welfare, peace and safety, this ordinance shall be in full force and effective immediately upon its passage.

Passed and approved this 9th day of April of April 20183

**Non Residential & Multi-family, commercial, industrial,
ETC.**

Remodel, repair, additlons, & alterations:

permit based on dollar value

\$50.00	\$500.00	\$501.00.	\$1,000.00	\$35
•\$1,001.00			\$1,500.00	\$45
\$1,501.00			\$2,000.00	\$55
\$2,001.00 - OVER			- OVER	\$55+Plus

\$2.9 For each additional Valuation or fraction there of Reqlures

5 Inspectlons @ \$25 each,

Residential & commercial new constructlon per square ft.

*Additional fine
for beginning
Job without
permit

Per day.

day.*

Additional fine for beginning job without permit \$75 Per day.

House Moving

***Same as demolltion ***

Inspection trips fot building permits.:

\$.25 each

3 Inspections required for residential construction.

Roofing Permits @ \$1.25 per square Plus 1 Inspection @ each.

Pool Inspections:

Minimum of ,00

Electrical Permit Fees

Fees are per meter

Minimum — 5 circuits @ \$3.50 each

Additional Circuits:

6-20 @ \$2.50 each.

21-42 @ \$2.00 each.

43. over @ \$1.00 each.

Requires 2 Inspections @ \$25 each.

Minimum permit Including 2 inspections and meter \$50.00

Minimum of 1 Inspection for the temp pole one circuit \$28.50

* When not part

Construction

Additional fine for beginning job without permit **\$25 Per day.**

Required Inspections

Commercial Minimum- 3 trips

Residential Minimum- 2 trips

Re- Wire Minimum- 2 trips

Extra Trips \$25 each

New Meter \$3.50 plus 1 inspection.

Change ~~Meter \$3.50~~ plus one inspection,

Mobile home fee \$35

Temporary Pole \$40

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Residential & commercial new construction 10 per square ft.

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Drive way Permit \$30.00

Drive way permit on new home include with building per.mlt.

**Sign Erectlon, Repair, Remodel
Same as non- residential fees**

Demolition Permits All:

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Minimum fee: \$300.00

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Heating unit change out	\$10
Condensing unit change out	\$10
Commercial range hood	\$75
Commercial refrigeration unit	\$20
Commercial exhaust unit	\$25
Attic installation	\$15
Crawl space installation	\$15

Inspection required @ \$25 each.

Extra inspections \$25

Minimum inspections on heat and air installation \$35

Plumbing and Permit Fees

Permit based on the following
fixture schedule.

Commode	\$5
Sinks	\$5
Lavatories	\$5
Showers	\$5
Bath Tubs	\$5
Sewer	\$5
Washing Machlne	\$5
Floor Drain	\$5
Dish Washer	\$5
Urlnal	\$5
Water	\$5
Hot water heater	\$5
Drinking Fountain	\$5
Gas service	\$5
...Grease Traps	\$5

Requres 3 Inspections @ \$25 each.

Extra Inspection trips @ \$25 each.

Remodel construction requires 2 trips

****Additional fine for beginning job without permit \$75 Per day.****

Remodel Construction: Requires 2 trips

Gas inspection outside city limits \$40

Fence Inspection: \$35

Transformers

Less than 5 KVA	\$6;00
6 KVA	\$6.00
51 KVA- Over	\$6.00

Slens: same as commercial, remodel & alterations.

****Additional fine for beginning job without permit \$75 Per day.****

Fire Safety Inspections

3 Inspections are required \$35 each.

Sprinkler Inspectlon

0-50	\$aas.so
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Alarm Inspectlon

1-10 Devices	\$12s.so
11-30 Devices	\$251
31-50 Devices	\$376,50
51-up Devices	\$251.00/200pius/376.50

ORDINANCE NO. 2010-6

10-11-10

AN ORDINANCE ADOPTING A REVISED ZONING CODE FOR THE CITY OF OZARK,
ARKANSAS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES

WHEREAS, the Planning Commission of the City Council of the City of Ozark, Arkansas have adopted and filed a new comprehensive plan for the city and its planning area; and

WHEREAS, The Arkansas planning statutes, in A.C.A §14-56-416 (a) (1) provide that "Following adoption and filing of the land use plan, the [planning] commission may prepare for submission to the legislative body a recommended zoning ordinance for the entire area of the municipality;" and

WHEREAS, The Planning Commission has prepared a new zoning code, consisting of a technical code and map, with the express purpose of carrying out the provisions of the comprehensive plan; and

WHEREAS, the Planning Commission, after holding a duly advertised Public Hearing on September 2nd, 2010, to allow discussion and citizen comments on the proposed zoning code, has adopted the new zoning code and forwarded it to the City Council with a recommendation that it be adopted by municipal ordinance.

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

1. That a Zoning Code, consisting of a Technical Code, and Zoning Map is hereby adopted as the Official Zoning Code of and for the City of Ozark, Arkansas, pursuant to A.C.A. 14-55-207, by which three copies shall be filed with the Ozark City Clerk for public inspection.
2. The City Clerk is directed to maintain the official copy of the Zoning Map in The Ozark City Hall. Copies of the Zoning Code may be distributed to the public as a convenience; however, the code maintained by the Ozark City Clerk in City Hall shall be the one and only official zoning code, consisting of a technical code and zoning map.
3. That any ordinance in conflict with this Ordinance are hereby repealed. All existing zoning maps and replicas of zoning maps not in accord with the official zoning map are hereby repealed.
4. The convenient and speedy delivery of goods and services within the City of Ozark being necessary for the continued health, safety, and welfare of the general public, an emergency is declared to exist and this ordinance shall be in full force and effect from and after its date of adoption.

ADOPTED THIS 13TH DAY OF SEPTEMBER, 2010

Mayor of Ozark

ATTEST:

City Clerk _____

TITLE 14

ZONING

Chapters:

- 14.04 Zoning Ordinance Adopted
- 14.08 Ozark-Franklin County Airport Hazard Zoning
- 14.12 Flood Damage Prevention Program
- 14.16 Mining and Drilling of Oil or Gas Wells
- 14.20 Annexing and Rezoning Property

CHAPTER 14.04

ZONING ORDINANCE ADOPTED

Sections:

- 14.04.01 Citation, purpose and nature
- 14.04.02 Administration
- 14.04.03 Definitions
- 14.04.04 Zoning districts
- 14.04.05 Special provisions
- 14.04.06 Special Permit Uses
- 14.04.07 Board of Zoning Adjustment
- 14.04.08 Signs
- 14.04.09 Amendments
- 14.04.10 Enforcement

14.04.01 Citation, purpose and nature

- A. This Code, in accordance with Arkansas Code Annotated §§ 14-46-401 et. seq., shall be known as the Ozark Zoning Code and may be cited as such.
- B. 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.

- C. 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. (Ord. No. 2004-6, Art. I)

14.04.02 Administration 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. (Ord. No. 2004-6, Art. II, Sec.1)

14.04.03 Definitions For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

- A. The words **shall** and **must** are mandatory; the word **may** is permissive.
- B. The words **used** or **occupied** shall include the words intended, designed, or arranged to be used or occupied.
- C. The word **lot** includes the words **plot** and **parcel**.
- D. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

For the purpose of these regulations, the following terms or words are defined as follows:

Accessory structure A subordinate structure located on the lot with the principal structure. Where an accessory structure is attached to the principal structure, in a substantial manner, as by a roof, such accessory shall be considered part of the principal structure. An example of an accessory structure for a non-residential structure would be the educational building of a church, with the sanctuary being the principal structure.

Accessory use A use which is customarily incidental to the principal use. In buildings restricted to residential use, the office of a professional man or customary family workshops not conducted for compensation shall be deemed an accessory use.

Adult Daycare Center An establishment that provides, on a regular basis, assistance or care for five or more unrelated adults for a period of less than twenty-four hours a day and which receives a payment, fee or grant for the adults attending the facility, whether or not operated at a profit.

Alley A public passage or way affording a secondary means of vehicular access abutting property and not intended for general traffic circulation. (Ord. No. 2009-11, Sec. 1.)

Antenna array One 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.

Area This term refers to the amount of land surface in a lot or parcel.

Area requirements The yard, lot area, width of the lot, and parking requirements as set forth in a specific district.

Automobile Junk and Salvage Yard or Scrap Yard An area outside of a building where motor vehicles are disassembled, dismantled, junked, or "wrecked", or where motor vehicles not in operable condition or used parts of motor vehicles are stored, or where scrap metal, cloth, wood, paper, or other materials are stored for either resale, recycling, or retention.

Bed and Breakfast An owner-occupied dwelling unit that contains no more than three guest rooms where lodging, with or without meals, is provided for compensation. The operator of the inn shall live on the premises or in adjacent premises.

Buffer protection A landscaped area or fence intended to separate and partially obstruct the view of two adjacent land uses of properties from one another. (Ord. No. 2009-11, Sec. 1.)

Building See Structure.

Building Coverage The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

Building, Height of The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extensions above the roof line that are not intended for occupancy or internal usage by persons.

Building Line The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

Building, Main or Principal A building in which is conducted or intended to be conducted, the main or principal use of the lot on which said building is located.

Building Inspector The individual designated by the Ozark City Council with the responsibility of administering the city building and development codes.

Camper A small trailer built on a chassis, towed behind a vehicle with bunks, stove, and other facilities or a pickup truck that has a shell over the truck with minimum living facilities. (Ord. No. 2009-10, Sec. 1.)

Carport A structure designed primarily for the housing of a vehicle, may be attached to a house or other building or it may be freestanding, and in any case, be and remain open on at least two (2) sides. (Ord. No. 2004-9, Sec. 1.)

Carnival A transient amusement enterprise set up with the intent to operate for a limited time at any specific location. (Ord. No. 2009-10, Sec. 1.)

Child Care Center Any Child Care Facility conducted under public or private auspices on a profit or nonprofit basis providing direct care and protection for minor children. Any facility that is open more than five (5) hours during any 24 hour period or more than a total of ten (10) hours during a seven (7) day period is considered a Child Care Center and shall be subject to provisions of the Child Care Facility Licensing Act. This definition includes, but is not limited to, a nursery, a nursery school, a registered home day care, a day care family home, or day care center. However this definition does not include:

Special schools or classes operated solely for religious instruction.

Facilities operated in connection with a church, shopping center, business or establishment where children are cared for not more than five (5) hours during any 24 hour period or more than a total of ten (10) hours during a seven (7) day period.

Educational facilities, whether public or private, which operate solely for educational purposes in grades one (1) or above and does not provide any custodial care.

Kindergartens operated as a part of the public schools of this state.

Any situation, arrangement, or agreement by which one (1) or more persons care for fewer than six (6) children from one (1) family at the same time.

Any recreational facility or program, whether public or private, which operates solely as a place of recreation for minor children, where children are not cared for more than five (5) hours during any 24 hour period or more than a total of ten (10) hours during a seven (7) day period.

Any state-operated facility to house juvenile delinquents or any serious offender program operated by a state designee to house juvenile delinquents, foster home, group home, or custodial institution.

Child Care Center, Public or non-profit A Child Care Center conducted by a religious institution, school or other non-profit organization and providing direct care and protection for children excepting that this definition does not apply to facilities meeting this definition but operation no more than three weeks at a time, specifically including religious study schools and day camps.

Child Care Center, Private A child Care Center conducted under private, for-profit, auspices providing direct care and protection for children.

Child Care Intensive Home Facility A situation, arrangement or agreement by which one or more persons care for six to 16 children from more than one family and are cared for in a caregiver's own family home or in some other suitable family type residence. Such day cares are defined by the state as Child Care Family Homes.

Child Care Family Home A situation, arrangement or agreement by which one or more persons care for five children or less from more than one family and are cared for in a caregiver's own family home or in some other suitable family type residence. Such day cares are defined by the state as Registered Child Care Family Homes.

Clinic, Dental or Medical A facility for the examination and treatment of ill and afflicted human outpatients; however, that patients are not kept overnight except under emergency conditions.

Dwelling, single-family A detached structure designed for or occupied by one family only.

Dwelling, two-family A detached structure designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

Dwelling, multi-family A structure designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

Dwelling unit A structure or portion providing complete housekeeping facilities for one family. The term shall not be deemed to include motels, rooming houses, or mobile homes.

Dwelling, multi-family-apartment type A structure designed for or occupied by more than four families, each having total separate housekeeping and cooking facilities for each.

Easements A property interest granted to a public utility company, the city or other public bodies, or the general public for the establishment, use, maintenance or enlargement of specified uses, such as, but not limited to, utilities, drainage, and pedestrian or vehicular access. A person may build over a utility easement at his/her own risk. (Ord. No. 2009-11, Sec. 1.)

Equipment facility Any structure used to contain ancillary equipment for a WCF.

Existing The established fact of the use of land or structure at time of the effective date of these regulations.

Family One or more persons occupying premises and living as a single non-profit housekeeping unit provided that, unless all members are related by blood or marriage, the number of persons shall not exceed five.

Federal Standards The Federal Manufactured Home Construction and Safety Standards promulgated by the U.S. Department of Housing and Urban Development under the authority of 42 U.S.C. 5401, et seq., as it existed on January 1, 1976. (Ord. No. 2008-7, Sec. 4.)

Floor area The sum of gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings but not including cellar or basement space not used for retailing and not including accessory off-street parking or loading space.

Home Occupation Any occupation or activity which is clearly incidental and secondary to the use of the dwelling and which is carried on wholly within a main building by family member residing on the premises. A home occupation includes, but is not limited to, the following:

- A. Internet based home businesses
- B. Professional offices that do not require client visitation on the premises
- C. Musician's and artist's teaching studios
- D. Tutoring, limited to three students at one-time

Home occupation shall not include barber shops, beauty shops, child care centers, or restaurants. There shall be no exterior display of goods or services, and no yard space shall be used to further the home occupation.

Illumination, Direct Illumination that is so arranged that the light is directed into the eyes of the viewer from the light source.

Illumination, Indirect Illumination that is so arranged that the light is reflected from the sign to the eyes of the viewer.

Illumination, Spot Light Illumination that comes from lamps, lenses, or devices designed to focus or concentrate the light rays of the source.

Kennel Any lot or premises on which 4 or more animals, more than six months of age are kept for personal use or boarding.

Lot A portion or parcel of land considered a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belong to same.

Lot of record A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Manufactured home A dwelling unit constructed in a factory in accordance with the Federal Standards and meeting the definitions set forth in the Federal Standards and under A.C.A. 20-25-102. (Ord. No. 2008-7, Sec. 4.)

Manufactured Home Park Land or property containing a minimum of 2 acres which is used or intended to be used or rented for occupancy by manufactured homes or movable sleeping quarters of any kind.

Manufactured Home Space A space means ground within a manufactured home park designed of the accommodation of one manufactured home.

Manufactured Home Subdivision A subdivision in which lots are platted to be served by public rights-of way, designed and intended for sale to individuals who will place a manufactured home unit on their property.

Mobile home A dwelling unit constructed in a factory before the enactment of the Federal Standards as codified prior to 1976. (Ord. No. 2008-7, Sec. 4.)

Non-conforming A use or structure or both that existed prior to the adoption of these regulations, but which does meet the requirements of these regulations.

Nursing Home Any premises where more than three unrelated persons are lodged and furnished with meals and nursing care.

Open space Any unoccupied space on a lot that opens unobstructed to the sky and occupied by no structures or portions of structures whatever.

Parking space An on-lot space available for the parking of one motor vehicle, and having an area of not less than 200 square feet exclusive of space necessary to provide access to a street or alley.

Principal use The chief or main recognized use of a structure, of a lot, or any parcel of land.

Privacy fences Privacy fences are types of fences that are so designed as completely block any view, and are constructed of masonry or solid wood.

Property line The line bounding a lot as described herein

Setback Distance between the building line and the lot line or current street right-of-way. Where an existing street's right-of-way does not meet the standard for the proposed street right-of-way width as shown on the comprehensive plan, the setback is measured from the projected edge of the street right-of-way.

Sign The term "sign" shall mean and include every device, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark, or reading matter which is used or intended to be used to attract attention or convey information when the same is placed out of doors in view of the general public. In addition, any of the above, which is not placed out of doors, but which is illuminated with artificial or reflected light placed near the inside surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey information to motorists.

Sign Area The area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it is columns, a pylon, or a building or part thereof, shall not be included in the sign area.

Sign, Area Identification A sign to identify a common area containing a group of structures, or a single structure on a minimum site of 5 acres, such as a residential subdivision, apartment complex, industrial park, manufactured home park, or shopping center, located at the entrance or entrances of the area, and consisting of a fence or wall or archway with letters or symbols affixed thereto.

Sign, Banner-style Any sign printed or displayed upon cloth or other flexible material, with or without frames.

Sign, Building Marker Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Sign, Bulletin Board A sign portraying a non-commercial message for the purpose of announcing an event to be held on the same premises upon which the sign is placed.

Sign, Flashing An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

Sign, Free Standing A sign that is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or other structure whether portable or stationary.

Sign, Identification A sign that serves as identification for a person or business operating on the premises where the sign is located. Such sign may name the person, organization or business, but shall not portray any other commercial or non-commercial message.

Sign, Illuminated Any sign that has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

Sign, Incidental A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.

Sign, Joint Identification A sign which serves as common or collective identification for a group of persons or businesses operating on the same zone lot (e.g., shopping center, office complex, etc.) and shall include a sign which identifies architects, engineers, contractors and other individuals or firms involved with the construction on the premises. Such sign may name

the persons, organizations or businesses included but shall not portray any other commercial or non-commercial message.

Sign, Non-conforming A sign existing at the effective date of the adoption of this Code, which could not be built under the terms of this Code.

Sign, Portable Any sign that is moveable, portable, capable of or intended to be moveable or portable. Also, a sign which is not permanently secured in or on the surface upon which it rests or a sign erected on a frame, platform, trailer, or other portable or moveable structure. Includes signs non-illuminated, illuminated or capable of being illuminated.

Sign, Projecting Any sign that shall be affixed at an angle or perpendicular to the wall of any building in such a manner as to read perpendicular or at an angle to the wall on which it is mounted.

Sign, Public A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, and convey public information or to direct or regulate pedestrian or vehicular traffic.

Sign, Real Estate A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

Sign, Temporary Any sign that is used only temporarily and not for a period exceeding 30 days and which is not permanently mounted.

Sign, Wall Any sign that shall be affixed parallel to the wall or printed on the wall of any building in such a manner as to read parallel to the wall on which it is mounted; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this Code, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign. Any sign that is affixed to the face of a building marquee, building awning, or a building canopy, shall be considered a wall sign.

Street A public way which affords the principal access to abutting properties.

Structure Anything constructed or erected with a fixed location on the ground. Among other things, structures include buildings, fences billboards, and poster panels, but do not include walks, parking areas and driveways.

Support structure A structure designed and constructed specifically to support an antenna array, and may include a monopole, guy-wire support tower, or derrick tower. Any device used to fasten an attached WCF to an existing building or structure shall be excluded from the definition of and regulations applicable to support structures.

Tractor and trailer rigs The tractor is a self-propelled unit designed to pull flat-bed or enclosed units for transporting of goods. The trailer is the unit either flat-bed or enclosed that goods are placed in for transporting and is not intended for the storage of goods. Either in one unit or separately, vehicles having more than two axles on the road or similar vehicles not ordinarily used for personal transportation, or otherwise known as a type of commercial vehicle. (Ord. No. 2009-10, Sec. 1.)

Travel trailer Each unit is a temporary single-family dwelling unit built on a chassis not exceeding 8 feet wide and 32 feet long designed for short-term occupancy and frequent travel, requiring services for utility and sanitary facilities. Unit may be self-propelled or towed behind a vehicle. (Ord. No. 2009-10, Sec. 1.)

Travel Trailer Park/Recreational Vehicle Park A unified development under private ownership designed primarily for transient service, on which travel trailers, pick-up coaches, and self-propelled motorized vehicles are parked or situated for short-term occupancy. The owner shall provide park services for utility and sanitary facilities.

Use of land The unoccupied portion of a lot shall be considered to be in the same use as is the principal structure on the lot, unless such land is utilized for open storage of agriculture purposes, such as composting for lawn home gardening.

Variiances Variiances are granted to the property and remain with the property, and transfer to changing owners or occupants. Such variiances are granted as administrative relief from the literal provisions of this Code when, because of particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.

Wireless Communication Facility A Wireless Communication Facility is defined as any unstaffed facility covered by the Federal Telecommunications Act of 1996 for the transmission and/or reception of wireless telecommunication services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure, also known as an antennae or tower, to achieve the necessary elevation.

Yard A horizontal distance from a lot line to a parallel designated line a year is an open space extending the full distance of the lot. (Ord. No. 2004-6, Art. III)

14.04.04 Zoning districts

- R-1 Low Density Residential District
- R-2 Medium Density Residential District
- R-3 Medium High Density Residential District
- R-4 Manufactured Home District
- R-5 Variable Density Residential District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Neighborhood Commercial & Quiet Business District
- I-1 Industrial District
- A-1 Agricultural District

- A. The use zones are designated on the map entitled "Zoning Map", City of Ozark, and said map shall be a part of this ordinance.
- B. The lines delineating the boundaries of the use zones on the "Zoning Map" are intended to follow city limit lines, center of street right-of-way, center of main channels of water courses, and existing property lines.
- C. When the street or property layout existing on the ground is at variance with that shown on the zoning map or with other requirements of this ordinance, the board of zoning adjustment shall interpret the boundaries.
- D. In cases where a specific property has been rezoned, the legal description contained on the original enacting ordinance shall serve as the official boundary for the zoning district, with the zoning map serving as a representation of that boundary.
- E. The official zoning map shall be located in City Hall and shall be the official authority as to the current zoning status of land, buildings, and other structures in the City.

R-1 Low Density 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. parks
- C. municipal recreational uses
- D. accessory or incidental structure to residential use
- E. home occupations, as permitted herein
- F. child care family homes

*Privacy
Fence - in back
6'
8' w/ neighbor approval*

Special Permit uses:

- A. bed and breakfast
- B. churches
- C. schools

Prohibited uses:

- A. manufactured homes
- B. mobile homes

Provisions of R-1:

- A. minimum lot area 7,000 sq. ft.
- B. minimum lot width 60 ft. at building line
- C. maximum height 3 stories or 36 ft. whichever is highest
- D. front yard 25 ft. setback
- E. (1) side yard 7.5 ft. setback
- 2. (2) side yard with street 25 ft.
- F. rear yard 10 ft. off property line
- G. off-street parking two (2) parking spaces per residence
- H. places of public assembly
 - (1) yard 25 ft. from all property lines
 - (2) parking one (1) space per 5 persons accommodated
- I. living unit; single family 1000 sq. ft. minimum of living area
no less than 20 ft. in width and roof pitch of
no less than 4 in 12, the main entrance (front
door) must face the street on which the
property is addressed.
- J. All carports must meet the setback requirements of R-1 zoning.
No privacy fences shall be constructed in the front setback area.
(Ord. No. 2009-12, Sec. 3.)

R-2 Medium Density Residential District The principal use of land shall be for detached, single family dwellings, or attached dwellings for up to a four family occupancy, and such recreational, religious, and educational facilities which would require the basic elements of a balanced and attractive neighborhood area. This district is designed primarily for the use of duplex, tri-plex and four-plex style structures.

Permitted uses:

- A. single family dwellings up to four family dwellings, detached or consolidated
- B. all permitted R-1 uses
- C. child care family homes

Special Permit uses:

- A. bed and breakfast
- B. churches
- C. schools

Prohibited uses:

- A. manufactured homes
- B. mobile homes

Provisions of R-1:

- A. minimum lot area 8,000 sq. ft. for the initial unit, and 1,500 sq. ft. per each additional unit
- B. minimum lot width 60 ft.
- C. maximum height 3 stories or 36 ft. whichever is highest
- D. front yard 25 ft.
- E. (1) side yard 7.5 ft.
- E. (2) side yard with street 25 ft.
- F. rear yard 10 ft. off property line
- G. off-street parking two (2) per family unit
- H. places of public assembly
 - (1) yard 25 ft. from all property lines
 - (2) off-street parking one (1) space per 5 persons accommodated
- I. no privacy fences shall be constructed in the front setback area

R-3 Medium-High Density 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
- F. child care centers, child care intensive home facilities, and adult daycares
- G. public or private schools, parks, and churches

Prohibited uses:

- A. manufactured homes
- B. mobile homes

Provisions of R-3:

- | | | |
|----|---|--|
| A. | minimum lot area | 12,000 sq. ft. per first four family units or structure and 1,500 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 | 10 ft. off property line |
| G. | no privacy fences shall be constructed in the front setback area | |
| H. | no building shall not cover over 60 percent (60%) of the lot area | |
| I. | parking | two (2) parking spaces per family unit or single family dwelling |

R-4 Manufactured Home District This district is intended to accommodate a dwelling unit constructed in a factory in accordance with the federal standards and meeting the definition set out in the Federal Standards 42 U.S.C. 5401, et seq. (January 1, 1976) and A.C.A. 20-25-102. It is the intent that this district be located so as not to adversely affect the established residential development patterns and densities in the city. Such locations, however, shall have necessary public utilities, community facilities, and other public services in order to provide a healthful living environment with the normal amenities associated with residential districts of the city.

Permitted uses:

- A. manufactured homes parks
- B. manufactured home park accessory and service buildings
- C. manufactured home subdivision
- D. public or private schools, parks, and churches

Provisions of R-4:

- | | | |
|----|-----------------------------------|--|
| A. | minimum lot area | |
| | (1) manufactured home park | 2 acres with 4,500 sq. ft. per dwelling unit |
| | (2) manufactured home subdivision | 4,500 sq. ft. |
| B. | minimum lot width | 45 ft. at building line |
| C. | maximum height | 1 story |
| D. | front yard | 25 ft. setback |
| E. | (1) side yard | 10. ft. |
| | (2) side yard with street | 25 ft. |
| F. | space clearance | 20 ft. between homes |
| G. | rear yard | 15 ft. off property line |
| H. | fencing | No privacy fence shall be constructed in the front setback area. |
| I. | off-street parking | two (2) per family unit |

In addition, the R-4 Manufactured Home District shall adhere to the following requirements and limitations:

- A. The manufactured home shall meet all requirements as defined in Art. III and must possess all necessary building and occupancy permits and other certifications required by the city of Ozark for a dwelling unit.
- B. In a manufactured home subdivision, the home must be appropriately sited on the lot with the front of the home oriented to the front of the lot, and all required setbacks (front, side and rear) of the zoning district in which the home is located must be met without any exceptions or variances.
- C. The home shall be installed in accordance with the manufacturer's instructions as recognized by the Arkansas Manufactured Home Commission, including site preparation, pier foundations-footings, pier support columns, and anchoring. Installation shall include the construction of a perimeter foundation enclosure of brick, stone or exterior material used on site-built residential and installed in conformance with the manufacturer's installation instructions.
- D. The dwelling shall be occupied only as a single-family residential use. (Ord. No. 2008-7, Sec. 2.)

R-5 Variable Density Residential District This district is intended to provide for medium density dwellings and includes a wide variety of housing types, including manufactured homes. The principal use of land is for single family, two-family dwellings, townhouses and multiple family dwellings such as duplex, triplex and four-plex style structures. Recreational, religious, and educational uses normally located to service residential areas are also permitted to provide the basic elements of convenient, balanced and attractive living areas.

The establishment, location and use of manufactured homes as individual-site, single family residences shall be permitted in the R-5 Zoning District subject to all requirements and limitations generally apply to such residential use in each of the respective districts, and provided such homes shall meet all of the following requirements and limitations:

Permitted uses:

- A. up to four family dwelling, detached or consolidated
- B. manufactured homes
- C. all permitted R-1 uses

Provisions for R-5:

- | | | |
|----|--|--|
| A. | single family dwellings | must comply with all R-1 provisions |
| B. | townhouses, duplex, triplex
& four-plex | must comply with all R-2 provisions |
| C. | manufactured homes single family | 1,000 sq. ft. minimum living area; no less than 20 ft. width and roof pitch no less than 4 in 12. All living units shall be built on a solid perimeter foundation enclosure of concrete block, brick, or stone. The manufactured home shall be installed meeting the manufacturer's instructions with all wheels, tires, axles, and parts used for towing being removed. |
| D. | minimum lot area | 7,000 sq. ft. |
| E. | minimum lot width | 75 ft. |
| F. | maximum height | 3 stories or 36 ft., whichever is highest |
| G. | front yard | 25 ft. setback |
| H. | side yard | 7.5 setback |
| I. | space clearance | 15 ft. between homes |
| J. | rear yard | 10 ft. off property line |
| K. | off-street parking | 2 parking spaces per residence |
| L. | places of public assembly | |
| | (1) yard | 25 ft. from all property lines |
| | (2) parking | 1 space per 5 persons accommodated
(Ord. No. 2008-7, Sec. 3.) |

C-1 Central Business District The Central Business District is a permanent site within the city of Ozark which represents the core section of downtown. This district serves as the historic retail center of the community. The intent of the district is to encourage a diversity of uses that sustain the historic character of the downtown.

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 as barber shops, beauty salons, etc.
- E. government offices
- F. places of public assembly and churches
- G. upper story apartments and lofts
- H. structures with mixed residential and commercial uses

Special Permit uses:

- A. bed and breakfast
- B. convenience or liquor store

Prohibited uses:

- A. utility staging yards
- B. automotive salvage yards
- C. freestanding vending machines, as a principal use
- D. mini-storage

Provisions of C-1

- | | | |
|----|----------------------|--|
| 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 ft. |
| C. | height | 4 stories or 48 feet, whichever is greater |

C-2 General Business District 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 impedance to the public.

Permitted uses:

- 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
- F. public or private schools, parks, and churches
- G. child care centers and adult daycares
- H. Recreational vehicle campgrounds, in conformance with applicable regulations
- I. sexually oriented business meeting all applicable state regulations and subject to all the requirements contained within this code

Provisions of C-2:

- | | | |
|----|--|--|
| A. | minimum lot area | 5,000 square feet |
| B. | front yard | minimum of 30 ft. |
| C. | side yard | minimum of 30 ft. on property abutting a residential use zone or 15 ft. on property abutting a commercial use zone |
| D. | rear yard | minimum of 10 ft. from rear lot line or center of alley, if one exists |
| E. | lot coverage | No structure shall cover more than one-half (½) the lot area. |
| F. | 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 property. |
| G. | parking | commercial – one space per employee with one additional space per 200 sq. ft. of building retail space. |
| H. | places of assembly parking
(Ord. No. 2004-6, Art. IV) | one space per 10 persons |

C-3 Neighborhood Commercial and Quiet Business This district is intended to accommodate quiet businesses, professional offices, medical and dental offices and essentially include facilities which can be located adjacent to or combined with multi-family residential uses without undue harmful effects to the residential uses and adjacent areas. This district can serve as a buffer between higher intensity commercial districts and residential districts. Where commercial development exists adjacent to single-family residential zoning, it should be limited to frontage lots of arterial streets only.

Permitted uses:

- A. professional offices
- B. medical and dental offices
- C. government offices and facilities
- D. place of public assembly
- E. florist shop, photographic or music studio
- F. antique or gift shop
- G. barber or beauty shop
- F. public or private schools, parks, and churches
- G. child care centers and adult daycares

Special Permit uses:

- A. bed and breakfast
- B. mini-storage

Provisions of C-3:

- A. This district will be limited to low traffic volume and with operating hours of not earlier than 7:00 a.m. and no later than 9:00 p.m.
- B. To reduce impact on adjacent neighborhoods, no building will be constructed or renovated with exposed metal walls on any side. This does not prohibit metal fascia or ornamental trim, or metal siding of the type customarily used in residential construction.
- C. minimum lot area 5,000 square feet
- D. front yard min of 30 ft.
- E. side yard: min of 40 ft. on property abutting a residential use zone or 20 ft. on property abutting a commercial use zone.
- F. rear yard: min of 10 ft. from rear lot line or center of alley if one exists.
- G. lot coverage: No structure shall cover more than one-half (½) the lot area.
- H. 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; a designated area loading or unloading area shall be provided on the property.
- I. parking commercial – one space per employee with one additional space per 200 sq. ft. of building.
- J. places of assembly one space per 10 persons
(Ord. No. 2007-19, Sec. 1.)

I-1 Industrial District 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. 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

Prohibited uses:

- A. residential uses

Provisions of I-1:

- 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. All setbacks must be at least 25 feet from property lines. More if necessary because of safety concerns.
- C. Maximum height to be determined in consideration of other uses of the surrounding area including airports, highways, and other structures.
- D. No loading or unloading may be on or within public right-of-way.
- E. One parking spot per three employees.
(Ord. No. 2004-6, Art. IV)

A-1 Agricultural District This district is designed to provide for the compatible existence of agricultural activities within the city's corporate boundaries so that agricultural uses are protected as a valuable natural resource and do not unduly disturb the desirable functioning of residential, commercial and industrial uses.

Permitted uses:

- A. agriculture, except hog farms
- B. animal husbandry – the care and breeding of animals, excluding hogs, for sale
- C. single-family dwellings
- D. public facilities

Special permit uses:

- A. large-site commercial recreation use of two acres or more
- B. golf courses and fairgrounds

Area regulations:

- A. The minimum site size for any agriculture or animal husbandry shall be one (1) acre.
Residential uses shall meet the minimum requirements as per the most restrictive residential zone otherwise permitted within the city.
- B. The minimum setback of agricultural and animal husbandry structure from any residential zoning district is one hundred (100) feet. Otherwise, all such structures shall be set back a minimum of fifty (50) feet from all front, rear and side yards.

14.04.05 Special provisions

A. Classification of annexed lands

1. All new additions and annexations of land to the city shall be conveyed into the R-1 Low Density Residential, Single-Family District, unless otherwise classified by the City Council within the ordinance annexing the said addition or land area.

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 ninety (90) 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.

C. Home occupations

1. Home occupations shall require a special permit, following procedures as outlined in Section 14.04.06. An occupation may be carried on in a residential structure in a residential district only if the following are complied with:
 - a. It does not involve the use of a commercial vehicle operating from the residence.
 - b. It does not require the use of more than two rooms otherwise considered living space.
 - c. It does not require the use of an accessory building.
 - d. No commercial activity outside of the main structure.

- e. The occupation must be carried on by a member of the family or resident of the home.
- f. The occupation may not cater to the day-to-day needs of the public.
- g. Home occupations permitted shall be limited to the use requested and as specified in the original petition.
- h. No exterior display of goods or services, or the use of yard space will be permitted.
- i. The special permit for any home occupation use that has been discontinued for a period of greater than ninety (90) days shall be considered invalid and revoked. Future use of the property must comply with the provisions of the underlying zoning district until a new special permit is obtained for a home occupation.

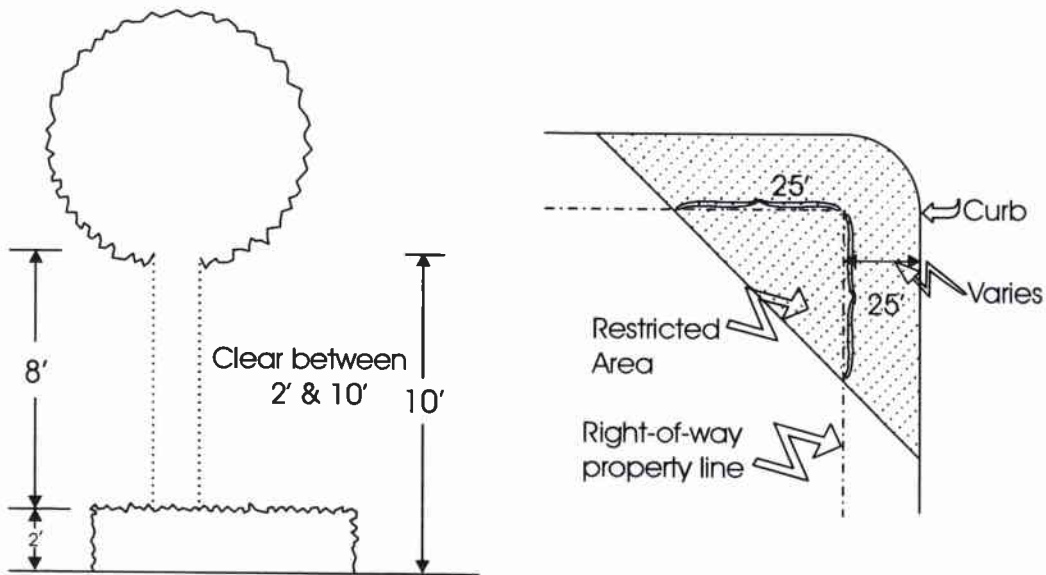
D. Sexually oriented business

- 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 city of Ozark and to establish reasonable and uniform regulations to control any concentration of sexually oriented businesses within the city. The provisions 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 theaters
 - e. Adult theaters
- 3. Condition of 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 ft. of:
 - (1) a church
 - (2) any type or facility used in or in conjunction with education, be it a public or private facility
 - (3) any type or facility used in or in conjunction with child care; be it a public or private facility
 - (4) any public park or place of public assembly

- b. No sexually oriented business may be operated:
 - (1) within 500 ft. of a boundary of a residential zone or any residential use as measured from property line of the business to the property line of the residential zone.
 - (2) 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.
(Ord. No. 2004-6, Art. V)

E. Intersection visibility On a corner lot in any residential, commercial and/or industrial district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 feet and 10 feet above the center line of the intersecting street in the area bounded by the street right-of-way lines (not curb lines, but the right-of-way which are also the property lines) of such corner lot and a line joining points along said streets rights-of-way lines 25 feet from the point of intersection.



- F. Recreational Vehicle Campgrounds: This section provides regulations governing the development and operation of Recreational Vehicle (RV) Parks within the City of Ozark. The section seeks to facilitate the development of RV parks to serve the following purposes.
- a. To provide economic opportunities for developers wishing to provide sites to accommodate tourists and travelers who need opportunities to store recreational vehicles overnight or for short durations.
 - b. To provide economic opportunities for developers wishing to provide sites for transient workers needing safe and sanitary sites for the storage of recreational vehicles used for housing during periods of extended but not permanent periods of employment, such periods generally not extending beyond 24 months.
 - c. To provide design guidelines for the construction of such facilities in a manner that will be consistent with the goals of the city's land-use plan.
 - d. To provide maintenance and management guidelines that will protect the appearance of the neighborhoods in which RV parks are located.
1. **Permits**: The approval to construct the park shall be obtained through the Large Scale Development process contained in the Ozark Subdivision Regulations. Approval of the detailed site plan shall authorize the developer to construct all improvements necessary for operating the park in accordance with this section.
 2. **Location and Site Design**: The following regulations govern the location of RV parks.
 - a. RV Parks will only be located in C-2 zones.
 - b. RV parks should be located adjacent to commercial districts; however, each application will be evaluated on its specific set of facts. If a park is located adjacent to a residential district, the site plan shall reflect a 50-foot landscaped buffer on all sides adjoining a residential area.
 - c. **Site conditions**: conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.

- d. Soil and ground cover: exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with vegetable growth that is capable of preventing soil erosion and of eliminating objectionable dust.
 - e. Drainage requirements: surface drainage plans for the entire tract shall be reviewed by the city's engineer which shall determine whether the proposed plan is compatible with the surrounding existing drainage pattern and the city drainage plan, prior to issuance of site plan approval and of building permits. No permit shall be approved in such instances where the planning commission finds the plan to be incompatible with surrounding areas.
3. Density: The density shall not exceed 25 camper-vehicle spaces per acre of gross site area, except that the density may be reduced by the planning commission where the physical characteristics or characteristics of the site would indicate that the higher density could, upon finding by the commission, adversely affect the public health, safety and general welfare.
4. Length of Stay: In order to accommodate seasonal workers, there are no time restrictions on the length of stay of an individual recreational vehicle. Individual vehicle sites, however, shall not be altered to either encourage or depict permanent residency. Specifically, no permanent or semi-permanent structures such as storage sheds, decks, garages, awnings (other than those that are a part of the vehicle itself,) walkways, or landscaping shall be installed.
5. Access and Circulation: The following regulations govern the access and circulation within RV parks
 - a. All RV parks shall be provided with safe and convenient vehicular access from an improved public street. It shall be the responsibility of the applicant to provide the necessary access in all cases where there is no existing improved street or road connecting the RV park site with an improved existing public street or highway. Any street improvement existing beyond the boundary of the RV park shall be improved in accordance with the standards of any applicable city plans. All entrances and exits on state highways shall be approved by the Arkansas Highway and Transportation Department. All entrances and exits on all other roads shall be approved by the planning commission. All parks with more than 30 sites shall have two or more entrances/exits. All parks with more than 100 sites shall have three or more entrances/exits.

- b. Each traffic and/or parking lane shall be a minimum of 25 feet wide. If on-street parking is allowed, an additional 10 feet shall be provided and constructed to the standards set forth in this section.
 - c. Curves and turning radii shall be constructed to safely handle vehicles eight and one-half feet wide and up to 40 feet long or as otherwise required by the Fire Marshall to handle the city's firefighting equipment.
 - d. There shall be at least three off-street parking spaces designated in the RV park for each two RV sites.
 - e. All vehicle circulation or parking areas shall be paved with a minimum of two inches of asphalt on seven and one-half inches of compacted SB-2 gravel.
6. Utilities: The following regulations govern the location of utilities within RV parks.
- a. **Water Supply.** Water supply shall comply with State and County health regulations. Fire protection standards shall be established by the Ozark Fire Marshall in order to ensure the safety of park patrons.
 - b. **Sewage Disposal Requirements.** Each RV park shall be connected to the city's sewage disposal system. Each RV site shall have access to its individual sewage disposal stub-up. The disposal system shall also be in compliance with State and County health regulations as they apply.
 - c. **Dump Station.** Each camper vehicle park shall be provided with an approved dump station in the ratio of one for every 100 camper vehicle spaces or fractional part thereof.

G. Wireless Communication Facilities

Purpose: This article is for the purpose of prescribing regulations governing conditions for the construction, placement, and operation of Wireless Communication Facilities within the city of Ozark, Arkansas.

General: The following regulations apply to all Wireless Communication Facilities.

Special use permit required: A special use permit is required for Wireless Communication applied so as to effectively prevent or eliminate Wireless Communication Facility construction, placement, and operation within the city limits of Ozark, the planning commission may refuse to grant any permit if it is

not in the best interest of the city of Ozark as determined by the planning commission or city council.

Application: Applications for Wireless Communication Facilities shall be obtained according to the following regulations.

Special permit application: The application for a special permit shall be made to the office of the Mayor by the owner or agent of the proposed Wireless Communication Facility. The planning commission shall review the permit request and render a decision subject to city council ratification within 30 days of application. The application shall include four (4) copies of the required site plan. The fee for processing a special permit application is Five Hundred Dollars (\$500.00).

The required survey and site plan shall be submitted on paper no larger than twenty-four (24) inches by thirty-six (36) inches and no smaller than twelve (12) inches by twenty-four (24) inches. The site plan shall be drawn to scale of no less than one (1) inch equals twenty (20) feet unless the planning commission approves a different scale. The survey and site plan shall, at a minimum contain the following information.

1. The land to be included in the proposed land use along with a written legal description of the land.
2. The location and dimensions of all public right-of-way on or abutting the planned area.
3. Location of all points of vehicular entrance and exit to the site and the location and dimensions of all existing casements and public improvements within the site.
4. The location of permanent or temporary structures or proposed structures to be located on the site.
5. Location of all security fencing around the site.

Required information: The complete application, including all supportive information, must be received by the Mayor at least thirty (30) working days before the date that work is to commence. The special permit application shall contain the following information:

1. The survey and site plan of the property prepared by a certified land surveyor registered civil engineer.
2. The street addresses or addresses of the entire property.
3. The present zoning classification of the property, using such words as "residential," "industrial," and "commercial" along with the numeral and letters in lieu of letters such as: R-1, I-1.
4. Description of the proposed special use, including the description of any construction of temporary structures to be erected on the property. This description shall include a scaled site plan containing a scaled elevation

view and other supporting drawings, calculations and other documentation showing the location and dimensions of the Wireless Communication Facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping and screening, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing Wireless Communication Facility shall include a Radio Frequency Intermodulation Study with their application.

5. A copy of the appropriate FCC license or license application.
6. The projected route of truck traffic to and from the operation site including the projected number of trips. The number of trips and route may be regulated by the planning commission.
7. The name of the subcontractor responsible for site preparation (a separate special use permit is required).
8. A drawing or other rendering depicting the Wireless Communication Facility. Said drawing should indicate any artificial illumination or signage, logo, decal, symbol or any other message of a commercial or noncommercial nature.
9. A drawing and description of the height of the Wireless Communication Facility as well as its width at the base and a detailed description of the length and type of guide wires or other item used to stabilize the Wireless Communication Facility.
10. A description and drawing of opaque security fence not less than six (6) feet in height.
11. The pertinent and relevant Federal Aviation Regulations and proof that the Wireless Communication Facility complies.
12. A statement agreeing to allow collocation of other Wireless Communications Facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The Co-Location Agreement shall be considered a condition of issuance of a special use permit.
13. In addition to the above information, the applicant shall submit supportive information that shall be deemed necessary to the planning commission. If additional information is requested, an additional seven (7) working days shall be required for the processing of the application in compliance with the FAA Regulations and must also meet the following conditions:

Limitations: The planning commission may impose reasonable conditions and restrictions upon the application under consideration with the intent of minimizing the impact of the special use permit operations upon nearby property or public property. The limitations placed upon a special permit may include but are not limited to:

1. limitations on height
2. limitations on width at base

3. landscaping and screening
4. collocation with other wireless communication providers
5. use of pre-existing structures
6. method of controlling traffic (flagman or traffic control device may be required at contractor's expense)
7. weight limits to be determined by the Mayor or his/her designated agent
8. the number of hours that site preparation work can be conducted on the premises may be regulated by the planning commission to minimize harmful effects on nearby property owners.

Regulations: The applicant must be in compliance with the FAA Regulations and must also meet the following conditions:

Collocation: All Wireless Communication Facilities shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to collocate with other existing Wireless Communication Facilities and to accommodate the future collocation of other Wireless Communication Facilities. Applicants proposing a new Wireless Communication Facility shall demonstrate that it has made a reasonable good faith attempt to find a collocation site. Competitive conflict and financial burden are not deemed to be adequate reasons against collocation.

Antenna array All Wireless Communication Facilities with support structure up to a height of one hundred fifty (150) feet shall be engineered and constructed to accommodate at least the three (3) antenna array. All Wireless Communication Facilities with support structure that exceed one hundred fifty (150) feet in height shall be engineered and constructed to accommodate at least four (4) antenna array.

Addition requirements: All reasonable conditions required for a special use must be met before any operations may begin. The owner or applicant filing for a special use permit shall sign a binding agreement with the city of Ozark that all damages to public property related to this operation, for which the owner or applicant is legally responsible, shall be repaired at the expense of the applicant. The Mayor shall determine the condition of public facilities (including photos and documentation) prior to the initiation of the operation. A bond, for a reasonable amount, shall be required for the amount determined by the planning commission. Immediately after completion of the Wireless Communication Facility, repairs will commence on the damage that has been done to the public property. Failure of the applicant to correctly repair all damaged public facilities, for which it has been determined responsible, may result in the revocation of all existing or future permits for said company and the City Attorney is authorized to take what means are necessary to insure that the public facilities are repaired.

Removal of abandoned Wireless Communication Facilities: Any Wireless Communication Facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the Wireless Communication

Facility owner shall remove the Wireless Communication Facility within ninety (90) days after notice from the city to remove the Wireless Communication Facility. If the abandoned Wireless Communication Facility is not removed within ninety (90) days, the city may remove it and recover its costs from the Wireless Communication Facility owner. If there are two or more users of a single Wireless Communication Facility, this provision shall not become effective until all providers cease to use the Wireless Communication Facility. If the owner of an abandoned Wireless Communication Facility cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the Wireless Communication Facility is located.

Non-conforming Wireless Communication Facilities: Wireless Communication Facilities constructed and in existence on the date of the adoption of this article which do not comply with the requirements of this article (non-conforming wireless communications facility) are subject to the following conditions:

Expansion: Non-conforming Wireless Communication Facilities may continue in use for the purpose now used, but may not be expanded without complying with this article except as further provided in this section.

Additions: Non-conforming Wireless Communication Facilities may add additional antennas (belonging to the same provider or other providers) subject to a separate special permit application.

Repairs or reconstruction: No-conforming Wireless Communications Facilities, which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this article. Provided, however, that if the damage of the Wireless Communication Facility exceeds fifty percent (50%) of the replacement cost, said Wireless Communication Facility may only be reconstructed or repaired in compliance with this code.

Unused facility: Any Wireless Communications Facility not in use for six (6) months shall be deemed abandoned. All rights as a non-conforming use shall cease at this point.

Revocation of special use permit: Any special permit issued pursuant to this article may be revoked after a hearing as provided hereinafter. If the Mayor and the City Council find that any permit holder has violated any provision of this article, or has failed to make good faith reasonable efforts to provide or seek collocation, the Mayor and City Council may revoke the special use permit upon such terms and conditions, if any, that the Mayor and the City Council may determine. Prior to initiation of revocation proceedings, the city shall notify the permit holder, in writing, of the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed sixty (60) days. The permit holder shall provide the

city with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Mayor and the City Council shall convene a public hearing to consider revocation of the special use permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the city not less than ten (10) days prior to the hearing and by written notice to the special permit holder. Other interested person may comment. The Mayor and City Council may impose reasonable restrictions with respect to time and procedure.

Penalty: The fine or penalty for violating any provision of this article shall, upon conviction in the District Court, not exceed One Thousand Dollars (\$1,000.00) for any one specified offense or violation; further, that if a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of this article shall not exceed One Thousand Dollars (\$1,000.00) for each day that it may be unlawfully continued.

Starting time: The Wireless Communication Tower construction must begin within six (6) months of the authorization unless a special time limit (less than six (6) months has been imposed by the Mayor or his/her designated agent. (Ord. No. 2008-19, Sec. 3.)

G. Temporary Use Travel Trailers and RVs

1. No travel trailer/camper shall be used as a dwelling/residence, with the exception of following a natural disaster, fire or other destructive occurrence that requires the rebuilding or repair of the owner's residence.
2. In the event of a natural disaster, fire or other destructive occurrence destroying or damaging a residence beyond livability, a travel trailer/camper may be moved onto the property for a dwelling while the residence is being rebuilt or repaired. The travel trailer/camper shall be used as a dwelling for a period of time not exceeding nine (9) months.
3. If at the end of three (3) months, no building or repair of the residence has started, the travel trailer/camper must be vacated as a dwelling.
4. The Mayor may grant a seasonal residence special event permit for no longer than fourteen (14) days for a travel trailer/camper. Examples such as: carnivals, fairs, or July 4th activities.
5. No travel trailer/camper shall be parked or occupied in the Commercial-1 District for any period of time longer than necessary for the transaction of business.
6. No part of a tractor and/or trailer unit, bus, truck bed (closed or open), motor vehicle, travel trailer/camper, any of the preceding, with or without

the chassis, shall be used for a storage building, refuse container or a business or dwelling, or converted to aforesaid uses.
(Ord. No. 2009-10, Sec. 2.)

H. Portable and Accessory Buildings All placement of temporary, portable and other storage buildings within the city of Ozark must meet the following requirements:

1. Must meet all setback requirements of the zoning district in which it is located.
2. Portable and temporary buildings are defined as any structure designed to be moved from one location to another and does not exceed 160 square feet of floor space.
3. All other storage buildings are to be considered permanent structures and are subject to the Building Codes of the city of Ozark.
4. No motor vehicles or parts thereof, truck beds, trailers, chassis, boxcars, or units thereof shall be used as a storage building or storage unit for any purpose. Special use permits shall be granted at six (6) month intervals for any such unit necessary to be on site during the construction period authorized by the required buildings permits. (Ord. No. 2009-12, Sec. 2.)

I. Residential Buffering

1. All interior sides and/or the rear of a lot zoned C-2, C-3 or I-1 which abuts a residential use zoning district shall be enclosed with an opaque, ornamental fence, a wall, or dense evergreen hedge having a height of not less than five (5) feet nor more than seven (7) feet at the time of planting, except as controlled by visibility requirements of Article V, Section E. Such fence, wall or hedge shall be maintained in good condition and shall be kept pruned.
2. Further buffer protection as appropriate for these zones shall be provided by increased setback requirements at the issuance of building permits as deemed necessary and as required by the Planning and Zoning Commission.
3. The buffer protection requirement may be waived by the Building Inspector if the adjoining residential property owner(s) object to the placement of said buffer. The adjoining owner(s) shall submit a letter to the building Inspector, signed by all owners of said property, stating such objection. (Ord. No. 2009-11, Sec. 2.)

J. Vacation of public easement Whenever a street, alley or other public easement or right-of-way is vacated, the zoning district classification of the property to which the vacated portions of land accrue shall become the zoning district classification of the vacated. (Ord. No. 2009-11, Sec. 2.)

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K. Child Care Facilities

1. Permit Requirement No child care facility of any type shall be located within the city unless a permit has been issued by the Building Inspector.
- a. Applications: Application for a child care facility permit shall be made on forms provided by City Hall. Requirements shall include but are not limited to location by street address, names and addresses of applicant(s), names and addresses of property owner(s), written approval of the property owners, number of children to be cared for on the premises, and proof of State Health Department licensing, if applicable.
 - b. Application Approval and Permit Issuance: The Building Inspector or assigned designee will be charged with review of all child care facility permit applications based upon the provisions of this code and other applicable regulations. The Building Inspector shall have 20 business days from receipt of the completed application to approve or deny the permit application. An application shall not be considered complete unless all application requirements are completed. A written explanation of denial shall be provided for denied permit applications upon request of the applicant. All decisions rendered by the Building Inspector concerning permit applications can be appealed to the Board of Zoning Adjustment by the applicant.
 - c. Fees: Fees shall be submitted to the City Clerk, upon approval of the application, in the amount of twenty-five (\$25.00) dollars. If a penalty has been assessed for non-compliance, both the penalty and the normal permit fee must be paid before a permit shall be issued.
2. Child Care Intensive Home Facilities: The following applies to Child Care Family Homes in residential zones.
- a. The centers shall be located in a single-family dwelling which is the permanent residence of the operator and shall be operated in a manner that will not change the character of the residence.
 - b. The dwelling shall be located on a lot having not less than 6,000 square feet of area. All portions of said lot used for outdoor play space shall be located behind the front building setback line and shall be fenced with an opaque fence not less than 6 feet in height.
 - c. The dwelling shall meet all City, County, and State Health Department requirements as to safety, design, facilities, equipment,

and other features, and the center shall be operated in a manner that will not adversely affect other properties and uses in the area.

- d. An off street parking space shall be provided for each employee of the center.
- e. An off street parking space shall be provided for use as a drop off point for discharging children at the center.
- f. City Fire Chief or Marshall Inspection and approval required.

14.04.06 Special Permit Uses

- A. Nature and Description Certain uses may or may not be appropriately located within various districts throughout the City of Ozark due to their unusual or unique characteristics of operation and external effects. Given their unusual character, special consideration must be given each application so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. The uses listed under the various districts herein as "special permit uses" are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; however, the nature of such uses makes it desirable that they be permitted to locate therein.
- B. Uses Permitted in Any District The following special uses may be authorized in any district in accordance with the procedure described herein:
 - 1. Cemetery or mausoleum.
 - 2. Hospital or sanatorium.
 - 3. Landing field or strip for aircraft.
 - 4. Radio tower or broadcasting station not covered by the Telecommunications Act of 1996.
 - 5. Removal of gravel, topsoil or similar natural material.
 - 6. Churches and other places of worship.
 - 7. Funeral homes
 - 8. Greenhouse or nursery, non-commercial only
 - 9. Nursing home
- C. Procedure for Authorizing The following procedure is established to integrate properly the special permit uses with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:
 - 1. An application shall be filed with the City Planning Commission for review. Said application shall show the location and intended use of the site and existing land uses within 200 feet and any other material or information pertinent to the request which the Planning Commission may require.

2. The City Planning Commission shall hold a public hearing thereon. At least fifteen days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Ozark. The Public Notice shall give the particular location of the property and the type of use for which the permit is requested. Additionally, the Building Inspector shall post on the property in a conspicuous location a sign which shall notify the general public of the proposed use and the public hearing date, time and place.
 3. In considering an application for a Special Use Permit, the Planning Commission shall give due regard to the nature and condition of all adjacent uses and structures. The Planning Commission may deny an application for a Special Use Permit, or, in granting such a permit, may impose such requirements and conditions with respect to location, construction, maintenance and operations as it may deem necessary for the protection of adjacent properties and the public interest.
 5. A majority vote of the entire Planning Commission shall be required to provide approval of a Special Permit application. If an application is not approved, no application for a special permit use may be re-filed for a period of 12 months from the date of disapproval of the application.
 6. A Special Use Permit shall run with the land; however, any expansion of the original development authorized by Special Use Permit that exceeds 100 square feet or an estimated construction cost of \$10,000 shall require a new Special Use Permit.
 7. The special permit for any use that has been discontinued for a period of greater than ninety (90) days shall be considered invalid and revoked. Future use of the property must comply with the provisions of the underlying zoning district until a new special permit is obtained.
- E. Fees Before any action shall be taken as provided in this section, the petitioner shall deposit with the City Clerk a fee of one hundred (\$100.00) dollars. This fee is non-refundable regardless of the outcome of the action.
- E. Revocation of Permit In the case where any of the specific terms and conditions of a special use permits are violated, ignored, or otherwise not observed the Building Inspector may revoke such permit. A 30-day written notice using certified mail shall be addressed to the applicant indicating the nature of the non-compliance and the applicant's right to file an appeal to the Board of Zoning Adjustment. If no appeal is filed within the 30-day period, and the non-compliance has not been corrected within 45 days of receipt of the written notice, the permit shall be revoked. Revocation shall be immediate and shall prevent use of the property in a general manner as specified within the original permit. The property shall revert to its use status prior to issuance of the special use permit.

14.04.07 Board of Zoning Adjustment

- A. Organization A Board of Zoning Adjustment (Board) is created which shall consist of the Planning Commission as a whole and the chairman of the Commission shall likewise be the Chairman of the Board.
- B. 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 (7) days prior to the meeting date.
- C. 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 Twenty-Five Dollars (\$25.00) shall accompany all notices of appeals. All fees shall be refunded upon the decision being reversed, otherwise there shall be no refund.
- D. Powers of Board The Board shall be granted the following powers:
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decisions 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.
 2. 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.
 4. The Board may hear applications and take action as permitted on matters specifically referred to it under these regulations and the Ozark Subdivision Regulations.
- E. 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 thirty (30) days of said decision. (Ord. No. 2004-6, Art. VI)

CHAPTER 14.12**FLOOD DAMAGE PREVENTION PROGRAM**Sections

14.12.01	Statutory authority
14.12.02	Findings of fact
14.12.03	Statement of purpose
14.12.04	Lands to which this ordinance applies
14.12.05	Methods of reducing flood losses
14.12.06	Flood Damage Prevention Code adopted by reference
14.12.07	Abrogation and greater restrictions
14.12.08	Interpretation
14.12.09	Warning and disclaimer of liability
14.12.10	Compliance
14.12.11	Penalty for non-compliance

14.12.01 Statutory authority The Legislature of the state of Arkansas has in A.C.A. 14-268-101, et seq., delegated the responsibility of local governmental units to adopt regulations to minimize flood losses. Therefore, the City Council of Ozark, Arkansas, does hereby ordain as follows. (Ord. No. 2011-7, Sec. 1.)

14.12.02 Finding of fact

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of Ozark, Arkansas, in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Franklin County, Arkansas, and incorporated areas, dated revised: August 2, 2011, with an effective Flood Insurance Rate Map (FIRM) dates revised: August 2, 2011.
- B. These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- C. These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately flood proofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events. (Ord. No. 2011-7, Sec. 2.)

- C. This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- D. This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- E. This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands. (Ord. No. 2011-7, Sec. 5.)

14.12.06 Flood Damage Prevention Code adopted by reference There is hereby adopted by reference a Flood Damage Prevention Code for Ozark, Arkansas, dated August 2, 2011. The code shall include:

- ARTICLE 1 DEFINITIONS
- ARTICLE 2 ADMINISTRATION
- ARTICLE 3 PROVISIONS FOR FLOOD HAZARD REDUCTION

A copy of the referenced code shall be filed in the office of the City Clerk and shall be available for inspection and copying by any person during normal office hours. (Ord. No. 2011-7, Sec. 6.)

14.12.07 Abrogation and greater restrictions This ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies. (Ord. No. 2011-7, Sec. 7.)

14.12.08 Interpretation In the interpretation and application of this ordinance, all provisions must:

- A. Be considered as minimum requirements;
- B. Be liberally construed in favor of the governing body; and
- C. Be deemed to neither limit nor repeal any other powers granted under state statutes. (Ord. No. 2011-7, Sec. 8.)

- F. Notice of public hearing Whenever an appeal for a variance or a special use permit; or an application for a variance 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 once not less than fourteen (14) days preceding the date of the such hearing. Notice shall also be given by the posting of signs upon the property where such variance is requested, the signs must be openly visible from the public right-of-way, and no less than 18 by 24 inches in size. The Board shall also give reasonable notice to any person or organization which the Board deems feasible and practicable. (Ord. No. 2004-8, Sec. 1.)

Where multiple frontage exists, whether it be another street or any public right-of-way, on a property that is being considered for rezoning, signs posted giving notice of such request must be placed on all frontage areas, and the Building Inspector shall check with the 911 addressing system to determine if any other physical address would apply to any portion of the property. (Ord. No. 2003-8, Sec. 1.)

14.04.08 Signs The purpose of this title is to provide minimum standards to safeguard life health, property, public welfare and community aesthetics, by regulating and controlling the location, design, and quality of maintenance of signs visible to the public.

- A. Administration The requirements of this title shall be administered by the planning commission and/or its designated representative, the Ozark building inspector
- B. Rules of Construction For purposes of this title, the following rules of construction shall apply:
1. When determining setback, the leading edge of the sign nearest the curb or edge of street shall be the point from which the setback is determined.
 2. When determining maximum signage area of a sign, the total area of one face of the sign shall be used, except for signs having more than one face. The total area of all sign faces shall be used for such signs.
- C. Permit Requirement No sign shall be erected, transferred, or structurally altered within the city unless a permit has been issued by the Building Inspector. A separate permit shall be required for each sign.
1. Applications: Application for a sign permit shall be made on forms provided by City Hall. Requirements shall include but are not limited to location by street address, names and addresses of owner(s) and sign contractors (s), scale drawing of the sign, exact location on lot, and lighting and construction design.

2. **Application Approval and Permit Issuance:** The Building Inspector or assigned designee will be charged with review of all sign permit applications based upon the provisions of this code and other applicable regulations. The Building Inspector shall have 10 business days from receipt of the application to approve or deny the sign permit application. If the Building Inspector fails to render a decision on a sign permit application that appears to meet the provisions of this code and other applicable regulations within 10 business days, the applicant shall be issued a permit for the sign immediately. A written explanation of denial shall be provided for denied permit applications upon request of the applicant. All decisions rendered by the Building Inspector concerning sign permit applications can be appealed to the Board of Zoning Adjustment by the applicant.
 3. **Sign erection deadline:** Permit for any sign not erected within six (6) months of date of issuance shall be void.
 4. **Fees:** Fees shall be submitted to the City Clerk, upon approval of the application, in the amount of twenty-five (\$25.00) dollars. If a penalty has been assessed for non-compliance, both the penalty and the normal permit fee must be paid before a permit shall be issued.
- D. **Penalty** Any person, firm or corporation who fails to obtain a sign permit shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for each offense. Each day that such violation continues shall constitute a separate offense.
- E. **Permit Exemptions** The following signs are exempted from the sign permit requirements but must comply with all other requirements of this title:
1. Memorial signs and building markers.
 2. Election campaign signs.
 3. Signs that are painted on or affixed to glass surfaces of windows or doors and that pertain to the lawful business of the persons located within the building.
 4. Signs advertising the sale of real property.
 5. Banners shall be exempt when used to announce a specific event, provided that they are not placed more than 30 days prior to the event and that they are removed within 72 hours following the event.
- F. **Prohibited Signs** The following signs are prohibited within the city limits:
1. Unsafe signs.
 2. Traffic hazard signs.
 3. Abandoned signs.
 4. Signs within the public right-of-way.
 5. Roof signs.

6. No signs may be painted on or attached to trees, rocks, or other natural formations, fence posts, utility poles, or building roofs.
7. Flashing illuminated signs.
8. Billboards
9. Signs on public property, except as authorized by the City of Ozark or other governmental institution.

G. Exemptions The following are exempted from these sign regulations.

1. The message and content of signs.
2. Product dispensers
3. Scoreboards and other signs acknowledging sponsors on athletic fields
4. Flags of any nations, government, or non-commercial organization
5. Gravestones
6. Barber Poles
7. Religious symbols
8. Display of street address numbers
9. Any display or construction not defined as a sign
10. Signs in the nature of decorations which are seasonal, clearly incidental and customarily associated with any national, local, or religious observance
11. Utility Location/Identification Signs

H. Placement and Construction Standards Unless otherwise provided in this code, the following regulations shall apply to all signs, billboards, and off premise signs in the city.

1. **Prevention of Access:** No sign shall be erected which prevents free ingress and egress from any driveway, parking lot, or structure door, window, or fire escape. No sign of any kind will be attached to any part of a fire escape or building standpipe.
2. **Obstructions of Vision:** On any corner lot no sign shall be erected in a manner to obstruct vision between a height of two (2) feet and eight (8) feet above the center line grades of the intersecting streets, in the area bounded by the street lines of such corner lot, and a line joining points along said street lines twenty (25) feet from the point of the intersection. Notwithstanding any regulation of this ordinance, no sign shall be placed in any position or in such a manner as to obstruct the vision of the motoring or pedestrian public, in the judgment of the Building Inspector. This requirement supersedes all other setback and coverage regulations.
3. **Interference with Utilities:** No sign shall interfere with the safe operation of all utilities by being placed within five (5) feet of a utility easement or designated utility safety zone.
4. **Construction Standards:** All signs and sign structures shall conform to the applicable building standards adopted by the City of Ozark. All electrified sign installers and maintenance operators shall be required to submit proof of licensure pursuant to Arkansas State Law.

I. Zoning Restrictions

1. All zoning districts

a. Construction Signs: One sign per construction site denoting a new construction or development and featuring the name of the development or construction company shall be allowed. Such signs shall not exceed 40 square feet in size and 16 feet in height and must be placed outside of all public right-of-ways. Such signs shall be removed once construction of the site is complete.

2. Central Business District (C-1)

a. Wall Signs.

i. Area: A wall sign shall not exceed 30% of the total square footage of the wall on which the sign is placed.

1) The maximum size for a wall sign on a single occupancy structure shall be 100 square feet. The maximum total square footage for all signs on a single occupancy structure shall be 100 square feet per wall.

2) The maximum size for a wall sign on a multiple occupancy structure shall be 100 square feet. The maximum total square feet for all wall signs on a multiple occupancy structure shall be 100 square feet for each occupant or 30% of the total square footage of the exterior wall of the occupant's space, whichever is less.

ii. Height: The maximum height for wall signs shall be 35 feet.

b. Projecting Signs.

i. Number: One projecting sign is allowed per business.

ii. Area: The maximum size for a projecting sign is 20 square feet. The sign shall not project more than 6 feet from the building façade.

iii. Height: The projecting sign must have clearance from the ground of at least 8 feet.

c. Sandwich Board/"A" Frame Signs

i. Number: One sandwich board sign is allowed per business.

ii. Area: The maximum size for a sandwich board sign is 8 square feet, with a maximum width of 2 feet.

iii. Placement: The sign shall be located on the sidewalk in front of the business and shall not be allowed to impede the safe and convenient flow of pedestrian traffic.

d. Temporary Signs.

- i. Number: One temporary sign is allowed per business with a 30 day permit renewable for a total of 60 days per year.
- ii. Area: Maximum area is 55 square feet.
- iii. Height: The maximum height for temporary signs is 35 feet.

e. Prohibited Signs.

Free-standing signs are prohibited in the C-1 Central Business District. This requirement excludes "A" frame sandwich board signs which shall be allowed.

3. Commercial Zones (C-2) and Industrial Zones (I-1)

a. Wall Signs.

- i. Area: A wall sign shall not exceed 30% of the total square footage of the wall on which the sign is placed.
 - 1) The maximum size for a wall sign on a single occupancy structure shall be 100 square feet. The maximum total square footage for all signs on a single occupancy structure shall be 100 square feet per wall.
 - 2) The maximum size for a wall sign on a multiple occupancy structure shall be 100 square feet. The maximum total square feet for all wall signs on a multiple occupancy structure shall be 100 square feet for each occupant or 30% of the total square footage of the exterior wall of the occupant's space, whichever is less.
- ii. Height: The maximum height for wall signs shall be 35 feet.

b. Projecting Signs.

- i. Number: One projecting sign is allowed per business.
- ii. Area: The maximum size for a projecting sign is 20 square feet. The sign shall not project more than 6 feet from the building façade.
- iii. Height: The projecting sign must have clearance from the ground of at least 8 feet.

c. Free-Standing Signs.

- i. Number: A maximum of one free-standing sign shall be allowed for each commercial or industrial building, excluding directional signs of less than four (4) square feet in size and less than four (4) in height.
- ii. Area: The maximum size for a free-standing sign for a single occupancy structure shall be 125 square feet. The maximum size for a multiple occupancy structure shall be 200 square feet.
- iii. Height: The maximum height for all free-standing signs shall be 35 feet.

- iv. Setback: All free-standing sign shall be setback at least 15 feet from the curb/edge of street or 10 feet from the edge of the public right-of-way, whichever is greater.
- d. Temporary Signs.
 - i. Number: One temporary sign is allowed per business with a 30 day permit renewable for a total of 60 days per year.
 - ii. Area: Maximum area is 55 square feet.
 - iii. Height: The maximum height for temporary signs is 35 feet.
4. Residential and Agricultural Zones (R-1, R-2, R-3, R-4, R-5, A-1)
- a. Wall Signs.
 - i. Number: One wall sign is allowed per single-family dwelling.
 - ii. Area: The maximum size for a wall sign shall not exceed 6 square feet
 - iii. Height: The maximum height for wall signs shall be 10 feet.
 - b. Area Identification Signs.
 - i. Number: A maximum of two area identification signs are allowed per multi-family housing development or residential subdivision.
 - ii. Area: The maximum size for an area identification sign shall be 40 square feet.
 - iii. Height: The maximum height for an area identification sign shall be 10 feet.
 - iv. Setback: All area identification signs shall be setback at least 15 feet from the curb/edge of street or 10 feet from the edge of the public right-of-way, whichever is greater.
 - c. Prohibited Signs.
No free-standing signs, except area identification signs; illuminated signs; portable signs; or temporary signs shall be permitted in the R-1, R-2, R-3, R-4, R-5, A-1 zones.
 - d. Public Places of Assembly, Churches, and Governmental Facilities.
Public places of assembly, churches, and governmental facilities shall be shall be allowed all signs permitted in C-2 Commercial Zones with a 50% reduction on maximum allowed heights and sign area.
5. Neighborhood Commercial and Quiet Business Zone (C-3).
- a. Wall Signs.
 - i. Area: A wall sign shall not exceed 30% of the total square footage of the wall on which the sign is placed. The maximum size for each wall sign in an C-3 zone shall be 40 square feet. The total

area for all permitted wall signs at any one establishment shall not exceed 40 square feet.

ii. Height: The maximum height for wall signs shall be 20 feet.

b. Projecting Signs.

i. Number: One projecting sign is allowed per business.

ii. Area: The maximum size for a projecting sign is 20 square feet. The sign shall not project more than 6 feet from the building façade.

iii. Height: The projecting sign must have clearance from the ground of at least 8 feet.

c. Free-Standing Signs.

i. Number: A maximum of one free-standing sign is permitted at any establishment in an C-3 zone.

ii. Area: The maximum size for a free-standing sign in an C-3 zone shall be 40 square feet.

iii. Height: The maximum height for all free-standing signs shall be 20 feet.

iv. Setback: All free-standing sign shall be setback at least 15 feet from the curb/edge of street or 10 feet from the edge of the public right-of-way, whichever is greater.

d. Temporary Signs.

i. Number: One temporary sign is allowed per business with a 30 day permit renewable for a total of 60 days per year.

ii. Area: Maximum area is 55 square feet.

iii. Height: The maximum height for temporary signs is 20 feet.

e. Prohibited Signs.

Portable signs are prohibited in C-3 zones.

J. Non-Conforming Signs. All non-conforming signs in existence at the date of this ordinance shall be considered valid, except, any sign which is determined to be a safety hazard. No non-conforming signs now in existence may be replaced with a non-conforming sign.

K. Enforcement It shall be the responsibility of the Building Inspector and/or the Code Enforcement Officer to apply these regulations to all signs in the city of Ozark.

14.04.09 Amendments

A. Amendments by the Council

1. The City Council may direct the Commission to amend the text of these regulations or the Commission may initiate an amendment.

2. Amendments to the text proposed by the Commission shall be advertised in a paper of general circulation at least fifteen (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.

B. Amendments by individual property owners

1. A petition, a form referred to as the city of Ozark Re-Zoning Community Liaison form, and One Hundred Dollars (\$100.00) shall be presented to the Ozark City Clerk by the property owner or his legally designated representative.

A petition shall contain the following information:

- a. The name of the owner of the property to be re-zoned.
 - 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.
2. The City Clerk, upon receipt of One Hundred Dollars (\$100.00), shall issue the petitioner a sign to be posted on the subject property for not less than fourteen (14) days prior to date of hearing. The sign shall be 18" x 24" and be placed on the property so as to be clearly visible from the street or any public right-of-way. Where multiple frontage exists, whether it be on another street or any public right-of-way, on a property that is being considered for re-zoning, signs posted giving notice of such request shall be placed on all frontage areas, and the Building Inspector shall check with the 911 addressing system to determine if any other physical address would apply to any portion of the property.
 3. The City Clerk shall forward the petition and completed form to the chairman of the Commission who shall then cause notice to be given to the public of the pending hearing. Notice shall be provided in a paper of general circulation no less than fifteen (15) days prior to date of hearing.
 4. The Commission shall:
 - a. hold a public hearing on the matter
 - b. approve or disapprove the matter and submit recommendation to the City Council

- c. give any reasons for a disapproval in writing to the petitioner within fifteen (15) days of said action
 - d. give City Council the matter to adopt by ordinance or return to Commission for further study
5. Any disapproval by the Commission may be appealed to the City Council; such appeal must be given in writing to the City Clerk within fifteen (15) days of the action.
6. No application for a change in zoning reclassification shall be reconsidered by the Commission for a period of twelve (12) months from the date of final action on the original request. (Ord. No. 2004-6, Art. VIII)

14.04.10 Enforcement

- A. Responsibility The Building Inspector, Code Enforcement Officer, or any Ozark city police officer shall be responsible for the administration and enforcement of these regulations.
- B. 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.
- C. Violations If the Building Inspector, Code Enforcement Officer, or a city police officer shall find that the provisions of these regulations are being violated he/she 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.
- D. Penalties
- 1. Violations of any provision of the zoning ordinance shall be considered a misdemeanor. Each day's violation shall be considered a separate offense.
 - 2. The City Council, upon recommendation of the Commission, may enjoin any individual or property owner who is in violation of a planning ordinance herein, to prevent and correct the violation.
 - 3. Violations shall have a penalty to no greater a sum of Five Hundred Dollars (\$500.00) for any one offense or double that sum for each repetition of such offense.
 - 4. If the violation continues the fine shall not exceed Two Hundred Fifty Dollars (\$250.00) for each day the offense is unlawfully continued. (Ord. No. 2004-6, Art. IX)

CHAPTER 14.08

OZARK-FRANKLIN COUNTY AIRPORT HAZARD ZONING

Sections:

14.08.01	Definitions
14.08.02	Airport zones
14.08.03	Airport zone height limitations
14.08.04	Use restrictions
14.08.05	Non-conforming uses
14.08.06	Permits
14.08.07	Board of Administration
14.08.08	Enforcement
14.08.09	Judicial review
14.08.10	Penalties

14.08.01 Definitions As used in this ordinance, unless the context otherwise requires:

Airport The Ozark-Franklin County Airport.

Airport elevation The highest point of an airport's usable landing area measured in feet from mean sea level.

Airport hazard Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or take-off at such airport or is otherwise hazardous to such landing or take-off of aircraft.

Approach, transitional, horizontal and conical zones These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined in F.A.R., Part 77.

Board of Administration A Board consisting of the members of the Ozark Planning Commission which were appointed by the City Council of Ozark, Arkansas, as provided in A.C.A. 14-363-204.

Height For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Non-conforming use Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.

Non-precision instrument runway A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation

equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

Person An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

Primary surface A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway, but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure One object constructed or installed by man, including, but without limitation, building, towers, smokestacks, earth formation, and overhead transmission lines.

Utility runway A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Tree any object of natural growth.

Visual runway A runway intended solely for the operation of aircraft using visual approach procedures with not straight – in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

14.08.02 Airport zones In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. Such zones are shown on the Ozark-Franklin County Airport Hazard Zoning map consisting of one sheet prepared by D. Gen Daniel, Inc., Engineers-Consultants, Fort Smith, Arkansas and dated November 20 1974, which is attached to this ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Utility Runway Non-Precision Instrument Approach Zone The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface, its centerline being the continuation of the centerline of the runway.
- B. Transition Zones These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90⁰ angles to the extended runway centerline.
- C. Horizontal Zone The horizontal zone is hereby established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- D. Conical Zone The conical zone is hereby established as the area that commences at the periphery of the horizontal zones and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones. (Ord. No. 231, Sec. 3.)

14.08.03 Airport zone height limitations Except as a otherwise provided in this ordinance, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- A. Utility Runway Non-Precision Instrument Approach Zone Slopes upward twenty (20) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- B. Transitional Zones Slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the side of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation which is 646 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface where the precision instrument runway approach zone projects beyond the conical zone. Height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the side of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90⁰ angles to the extended runway centerline.
- C. Horizontal Zones One hundred and fifty (150) feet above the airport elevation or a height of 796 feet above mean sea level.

- D. Conical Zone Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- E. Excepted Height Limitations Nothing in this ordinance shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to fifty (50) feet above the surface of the land.

Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail. (Ord. No. 231, Sec. 4.)

14.08.04 Use restrictions Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ord. No. 231, Sec. 5.)

14.08.05 No-conforming uses - Retroactive regulation The owner of any structure or object of natural growth existing at the time of the adoption of this regulation which does not conform to these regulations shall be granted a permit authorizing continuance of such non-conforming use upon application is not made within ninety (90) days of the effective date of the regulation in question. The Ozark Planning Commission shall, by appropriate action, compel the owner of the non-conforming structure or object of natural growth, at his own expense, to lower or remove such object to the extent necessary to conform to the regulations. (Ord. No. 231, Sec. 6.)

14.08.06 Permits Before an existing non-conforming structure or object of natural growth for which a permit has been issued in accordance with 14.08.05 hereof may be altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the Board of Administration, authorizing such change or repair. No such permit shall be granted that will permit the structure or object of natural growth in question to be made higher or become a greater hazard to air navigation than its question to be made higher or become a greater hazard to air navigations than it was when the permit for its continuance was granted under 14.08.05 here, and where the structure or object of natural growth has been more than 50% torn down or destroyed, whether voluntarily, by an act of God or otherwise, or has become more than 50% deteriorated or decayed, no permit shall be granted that will permit said structure or object of natural growth to exceed the applicable height limit prescribed by the zoning regulations. Instead, in all such cases of 50% destruction, deterioration, or decay, whether application is made for a permit for repair or not, the Board shall, by appropriate action, compel the owner of the non-conforming structure or object of natural growth, at his own expense, to lower or remove such object to the extent necessary to conform to the said height limits. Except as indicated, all applications for permits for change or repair of non-conforming uses shall be granted.

- A. Variances Any person desiring to erect any structure or increase the height of any structure or permit growth of any object of natural growth, in excess of the highest limits prescribed under authority of this ordinance, must apply to the Board of Administration for a variance from the zoning regulations in question. Such variances shall be allowed upon a showing of practical difficulty or unnecessary hardship, together with a showing that the structure or object of natural growth in question will not constitute an undue hazard to aircraft operations at the airport.
- B. Hazard marking and lighting Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or object of natural growth in question to install and maintain obstruction marking or lighting as may be necessary. (Ord. No. 231, Sec. 7.)

14.08.07 Board of Administration The Ozark Planning Commission, under authority of the City Council of the city of Ozark, Arkansas, is hereby created as the Board of Administration and is delegated the power to promulgate, administer and enforce these regulations and is granted exclusive jurisdiction of all applications for permits and variances and other matters pertaining to the enforcement of this ordinance. The Board of Administration shall adopt rules for its governance and in harmony with the provisions of this ordinance. Meetings of the Board of Administration shall be held at the call of the Chairman and at such other times as the Board of Administration shall determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Administration shall be published. The Board of Administration shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall immediately be filed in the offices of the City Council of the city of Ozark, Arkansas. The concurring vote of a majority of the members of the Board shall be sufficient to grant or deny any relief coming within its jurisdiction of enforcing this ordinance. (Ord. No. 231, Sec. 8.)

14.08.08 Enforcement It shall be the duty of the Board of Administration to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Board of Administration upon a form furnished by the Board. Upon receipt of any application for a permit or variance, a public notice shall be published stating that a public hearing upon the application shall be held in twenty (20) days and any person having an interest in the proceeding shall have an opportunity to offer evidence for or in opposition to the application in question, and written findings of fact and conclusions of law shall be made by the Board, based upon the evidence offered at the public hearing. All applications shall be considered and granted or denied within ninety (90) days after public notice is published in the manner prescribed by law. (Ord. No. 231, Sec. 9.)

14.08.09 Judicial review Any person aggrieved by any regulation in this ordinance or by any order or filing upon an application for a permit or variance, may, within thirty (30) days thereof, appeal therefrom to the Circuit Court of the county within which the structure of object of natural growth in question is located, after such notice as the court shall direct to the parties interested, including a political subdivision served by the airport affected and the city promulgating the zoning regulations in question. A hearing may be had before such court at an early and convenient time fixed by it, and said court may, by its decree, annul, affirm, or alter the regulations, order or ruling complained of it finds that the applicable rules of law so require, provided that, in all cases, any findings of fact that may have been made by the Board authorized by substantial evidence, shall be accepted by the court as conclusive. Appeals from the Circuit Court to the Supreme Court of Arkansas shall be in accordance with the statute's governing such appeals now in full force and effect. (Ord. No. 231, Sec. 10.)

14.08.10 Penalties Each violation of this ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine in any sum not less than Twenty-Five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00). Each day a violation continues is a separate offense. The city of Ozark, Arkansas, is entitled to the remedy of either affirmative or negative injunction to enforce this ordinance's regulations. (Ord. No. 231, Sec. 11.)

CHAPTER 14.12

FLOOD DAMAGE PREVENTION PROGRAM

Sections:

- 14.12.01 Adopted by reference
- 14.12.02 Fine

14.12.01 Adopted by reference There is hereby adopted by reference a flood damage prevention code for the city of Ozark, Arkansas. Such flood damage prevention code is attached hereto and incorporated herein as if set forth word for word. A copy of the referenced code shall be filed in the office of the City Clerk and shall be available for inspection and copying by any person during normal office hours. The code shall include:

- Article 1. Statutory authorization, findings of fact, purpose and methods.
 - Article 2. Definitions
 - Article 3. General provisions
 - Article 4. Administration
 - Article 5. Provisions for flood hazard reduction
- (Ord. No. 97-8, Sec. 1.)

14.12.02 Fine Any person or corporation who violates any measure adopted under this code may be fined not more than One Hundred Dollars (\$100.00) for each offense. Each day during which such violation exists is a separate offense. (Ord. No. 97-8, Sec. 2.)

CHAPTER 14.16

MINING AND DRILLING OF OIL OR GAS WELLS

Sections:

14.16.01	Definitions
14.16.02	Permit
14.16.03	Streets and alleys
14.16.04	Well and mine location
14.16.05	Application and filing fee
14.16.06	Issuance or refusal of permit
14.16.07	Termination of permit
14.16.08	Permittee's insurance and bond
14.16.09	Deeper drilling, boring or digging
14.16.10	Pits for drilling operations
14.16.11	Premises to be kept clean and sanitary
14.16.12	Mufflers required
14.16.13	Fence
14.16.14	Noise and other nuisances
14.16.15	Penalty

14.16.01 Definitions For the purpose of this ordinance, the following words and terms wherever and whenever used or appearing in this ordinance shall have the scope and meaning hereinafter defined and set out in connection with each:

Lease as that term is used herein shall mean any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an operator or someone holding under it or him, but which, due to the free royalty ownership is developed and operated as a separate tract.

Mine shall include and mean any excavation or bores, to any formation or depth for the purpose of producing and recovering any aggregate, composite, dirt, mineral, or part of the earth for marketing or sale thereof, and the word mine shall include the operation of a quarry.

Permittee shall mean the person to whom is issued a permit for the drilling and operation of the well or a mine under this ordinance, and his or its administrators, executors, heirs, successors and assigns.

Person shall include both the singular and the plural, and shall mean and include any person, individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation or political subdivision whatsoever.

Technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry and mining industry.

Well shall include and mean any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of producing and recovering any oil, gas liquid hydrocarbon, or any of them. (Ord. No. 95-7, Sec. 1.)

14.16.02 Permit It shall be unlawful and an offense for any person acting either for himself or acting as agent, employee, independent contractor, or servant of any other person, to commence to drill, mine or to operate, any well or mine within the city limits of the city or to work upon or assist in any way in the production or operation of any such well or mine, without a permit for the drilling, mining, and operation of such well or mine having first been issued by the authority of the City Council in accordance with the terms of this ordinance. (Ord. No. 95-7, Sec. 2.)

14.16.03 Streets and alleys No well or mine shall be drilled or dug and no permit shall be issued for any well or mine to be drilled or dug at any location which is within any of the streets or alleys of the city, and no street or alley shall be blocked or encumbered or closed in any drilling, mining, or production operation except by special permit by order of the City Council, and then only temporarily. (Ord. No. 95-7, Sec. 3.)

14.16.04 Well and mine location No well or mine shall be drilled and no permit shall be issued for any well or mine to be drilled or dug at any location which is nearer than 200 feet of any residence or commercial building without the applicant having first secured the written permission of the owner or owners thereof. (Ord. No. 95-7, Sec. 4.)

14.16.05 Application and filing fee Every application for a permit to drill, dig, and operate a well or mine shall be in writing, signed by the applicant or by some person duly authorized to sign same on his behalf, and it shall be filed with the City Clerk and be accompanied with a filing fee of Five Hundred Dollars (\$500.00) in cash. No application shall request a permit to drill, mine, or operate more than one well or mine. The said application shall include full information, including the following:

- A. The date of said application;
- B. Name of applicant;
- C. Address of applicant;
- D. Proposed site of the well or mine, including:
 - 1. Name of the mineral owner and surface owner;
 - 2. Name of the lease owner;
 - 3. Brief description of the land;

- E. Type of derrick to be used or the type of mine or mining operation to be conducted;
- F. The proposed depth of the well or pit, cave, tunnel or cavern.
(Ord. No. 95-7, Sec. 5.)

14.16.06 Issuance or refusal of permit The City Council within forty-five (45) days after the filing of the application for a permit to drill, mine, or operate a well or mine shall determine whether or not said application complies in all respects with the provisions of this ordinance, and if it does, the City Council shall then fix the amount of the principal of the bond and insurance provided for in 14.16.08 herein, and after such determination shall issue a permit for the drilling, mining and operation of the well or mine applied for. Each permit issued under this ordinance shall:

- A. By reference have incorporated therein all the provisions of this ordinance within the same force and effect as if this ordinance were copied verbatim in said permit;
- B. Specify the well or mine location with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description;
- C. Contain and specify that the term of such permit shall be for a period of one (1) year from the date of the permit and as long thereafter as the permittee is engaged in drilling operations or mining operations with no cessations of such operations for more than ninety (90) days.
- D. Contain and specify such conditions as are by this ordinance authorized;
- E. Specify the total depth to which the well may be drilled, not exceeding the projected depth, or the depth to which the quarry, cave, tunnel, or shaft may be dug or bored, not exceeding the projected depth; and,
- F. Contain and specify that no actual operations shall be commenced until the permittee shall file and have approved an indemnity bond in the designated principal amount as to determined by the City Council and conditioned as specified in 14.16.08 hereof. Said permit, in duplicate originals, shall be signed by the Mayor of the city, and prior to delivery to the permittee shall be signed by the permittee (with one original to be retained by the city and one by the permittee); and when so signed shall constitute the permittee's drilling, mining or operating license and the contractual obligation of the permittee to comply with the terms of such permit, and such bond, and this ordinance.

If the permit for the well or mine be refused, or if the applicant notifies the City Council in writing that he does not elect to accept the permit as tendered and wishes to withdraw his application, or if the bond of the applicant be not approved and the applicant notifies the City Council in writing that he wishes to withdraw his application, then upon the happening of said events the cash deposit provided

for to be filed with the application shall be returned to the applicant, except that there shall be retained therefrom by the city One Hundred Dollars (\$100.00) as a processing fee. (Ord. No. 95-29, Sec. 6.)

14.16.07 Termination of permit When a permit shall be issued, the same shall terminate and become inoperative without any action on the part of the city unless within ninety (90) days from the date of issuance actual drilling of the well or digging of the mine shall have commenced. The cessation for alike period of the drilling or mining operations or the cessation of the production of oil or gas or other portions of the earth from the well or mine after production shall have commenced, shall operate to terminate and cancel the permit, and the well or mine shall be considered as abandoned for all purposes of this ordinance, and it shall be unlawful thereafter to continue operation or drilling of such well or digging of such mine without the issuance of another permit. (Ord. No. 95-7, Sec. 7.)

14.16.08 Permittee's insurance and bond In the event a permit be issued by the City Council under the terms of this ordinance for the drilling and operations of a well and the digging and operations of a mine, no actual operations shall be commenced until the permittee shall file with the City Clerk a bond and a certificate of insurance as follows:

- A. A bond in the principal sum of such number of dollars as has been so determined by the City Council, but not to be less than Five Hundred Thousand Dollars (\$500,000.00), said bond to be executed by a reliable insurance company authorized to do business in the state, as surety, and with applicant as principal, running to the city of the benefit of the city and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this ordinance in the drilling and operation for the well or the mining and operation of the mine. Said bond shall become effective on or before the date same is filed with the City Clerk and remain in force and effect for at least a period of six (6) months subsequent to the expiration of the term of the permit issued, and in addition the bond will be conditioned that the permittee will promptly pay off fines, penalties and other assessments imposed upon permittee by reason of breach of any terms, provisions and conditions of this ordinance, and that the permittee will promptly restore the streets and sidewalks and other public property of the city, which may be disturbed or damaged in the operations, to their former condition; and that the permittee will promptly clear all premises of all litter, trash, waste, and other substances used, allowed, or occurring in the operations, and will, after abandonment, grade, level and restore said property to the same surface condition, as nearly as possible, as existed when operations for the drilling of the well or wells were first commenced or when operations for the mining or digging of such mines were first commenced; and that the permittee will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the City Council shall deem any permittee's bond to be insufficient for any reason, it may require the permittee to file a new bond.

If, after completion of a well, permittee has complied with all of the provisions of this ordinance such as removing derrick, clearing premises, etc., he may apply to the City Council to have said bond reduced to a sum of not less than Ten Thousand Dollars (\$10,000.00) for the remainder of the time said well produces without reworking. During reworking operations the amount of the bond shall be increased to the original amount.

B. In addition to the bond required in paragraph (A) of this section, the permittee shall carry a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the permittee and the city, in an insurance company authorized to do business within the state, said policy or policies in the aggregate shall provide for the following minimum coverages:

1. Bodily injuries Five Hundred Thousand Dollars (\$500,000.00) one person; Million Dollars (\$1,000,000.00) one accident
2. Property damage Five Hundred Thousand Dollars (\$500,000.00)

Permittee shall file with the City Clerk of the city certificates of said insurance as above stated, and shall obtain the written approval thereof by the Mayor of the city, who shall act thereon within ten (10) days from the date of such filing. Said insurance policy or policies shall not be cancelled without written notice to the City Clerk at least ten (10) days prior to the effective date of such cancellation. In the event said insurance policy or policies are cancelled, the permit granted shall terminate, and permittee's rights to operate under said permit shall cease until permittee files additional insurance as provided herein.

If, after completion of a well or mine, permittee has complied with all of the provisions of this ordinance, such as to removing derrick, clearing premises, etc. he may apply to the City Council to have said insurance policies reduced as follows:

1. Bodily injuries Two Hundred Thousand Dollars (\$200,000.00) one person; Four Hundred Thousand Dollars (\$400,000.00) one accident;
2. Property damage One Hundred Thousand Dollars (\$100,000.00) for the remainder of the time said well produces without reworking. During reworking operations the amount of the insurance policy or policies shall be increased to the original amount.

For the operation, digging, or excavation of a mine, the insurance policy shall not be reduced and shall remain in full force and effect until abandonment of the mine and the proper grading, leveling, and restoring said property to the same surface condition as nearly as possible, as existed when operations were first commenced. (Ord. No. 95-7, Sec. 8.)

14.16.09 Deeper drilling, boring or digging Once any well or mine has either been completed as a producer or abandoned, it shall be unlawful and an offense for any person to drill such well to a deeper depth than that reached in the prior drilling operations or to dig, excavate or operate the mine without the permittee obtaining a supplemental permit after filing a supplemental application with the City Clerk specifying:

- A. The then condition of the well or mine and the casing within the well;
- B. The depth to which is proposed a well will be deepened or the width and the depth to which it is proposed that a mine will be expanded;
- C. The proposed casing program to be used in connection with proposed deepening operations for a well.
- D. An evidence of adequate current tests showing that the casing signs said well currently passed the same tests as are in this ordinance provided for in case of the drilling of the original well.

In the event the City Council is satisfied that said well may be deepened or that a mine may be widened or deepened with the same degree of safety as existed in the original well or mine, a supplemental permit may be issued without additional filing fee to the permittee authorizing the deepening and expanding of the operation of the well or mine as applied for.

In any deeper drilling or expansion of a mine, the permittee shall comply with all other provisions contained in this ordinance and applicable to the drilling, mining, completion, and operation of a well or mine. (Ord. No. 95-7, Sec. 9.)

14.16.10 Pits for drilling operations Steel slush pits shall be used in connection with a drilling and reworking operations. Such pits and contents shall be removed from the premises and the drilling site within sixty (60) days after completion of the well. No earthen slush pits shall be used, and no air drilling shall be used. The drilling shall be with mud only. (Ord. No. 95-29, Sec. 2.)

14.16.11 Premises to be kept clean and sanitary The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the Health Officer, at all times drilling operations or reworking operations or mining operations are being conducted, and as long thereafter as oil, gas and/o other minerals are being produced therefrom. It shall be unlawful for any permittee, their agent or employee to permit within the corporate limits of the city, any mud, water, waste oil, slush or other waste matter from any slush pit, storage tank or oil and/or gas well located within the corporate limits of the city, or from any premises within the city, developed or being developed for oil and/or gas purposes, into the alleys, streets, lots, land or leases within the corporate limits of the city. (Ord. No. 95-7, Sec. 11.)

14.16.12 Mufflers required Motive power for all operations after completion of drilling operations shall be electricity. Motive power for all mining operations shall be electricity or properly muffled gas, gasoline or diesel engines. (Ord. No. 95-7, Sec. 12.)

14.16.13 Fence The premises and drilling equipment shall be completely enclosed by a perimeter fence during drilling operations, and such perimeter fence must be at least fourteen (14) feet in height and constructed with wood framing and visquine or plastic of sufficient millage and durability to withstand wind and other elements. Any person who completes any well as a producer shall have the obligation to enclose said well, together with its surface facilities, by a substantial concrete block fence sufficiently high (no less than ten (10) feet in height) and properly built so as to ordinarily keep persons and animals out of the enclosure with all gates thereto to be kept locked when the permittee or his employees are not within the enclosure. It is provided, however, that in non-congested areas the City Council, in its discretion, may waive the requirement of any fence or may designate the type of fence to be erected. (Ord. No. 95-29, Sec. 3.)

14.16.14 Noise and other nuisances All oil operations, drilling, and production operations, and all mining operations shall be conducted in such a manner as to eliminate, as far as practicable, dust, noise, vibration or noxious odors, and shall be in accordance with the best accepted practices incident to exploration for, drilling for and production of oil, gas, other hydrocarbon substances and the mining of all minerals. Any drilling or mining operations conducted within 750 feet of any residence, hospital, nursing home, school or day care center shall not be operated or carried on except during the hours of 7:00 a.m. to 9:00 p.m. (Ord. No. 95-29, Sec. 4.)

14.16.15 Penalty It shall be unlawful and an offense for any person to violate or neglect to comply with any provision hereof irrespective of whether or not eh verbiage of each section hereof contains the specific language that such violation or neglect is unlawful and is an offense. Any person who shall violate any of the provisions of this ordinance or any other provisions of a drilling and operating permit or a mining permit issued pursuant hereto, or in condition of the bond filed by the permittee pursuant to this ordinance, or who shall neglect to comply with the terms hereof, shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be fined in any sum not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00); and the violation of each separate provision of this ordinance and of said permit, and of said bond, shall be considered a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense. In addition to the foregoing penalties, it is further provided that the City Council at any regular or special session or meeting thereof, may, provided ten (10) days' notice has been given to the permittee that revocation is to be considered to be at such meeting, revoke or suspend any permit issued under this ordinance and under which drilling or mining operations are being conducted in the event to the permittee thereof has violated any provision of said permit, said bond, or this ordinance. In the event the permit is revoked, the permittee may make application to the City Council for a re-issuance of such permit, and the action of the City Council thereon shall be final. (Ord. No. 95-7, Sec. 15.)

CHAPTER 14.20**ANNEXING AND REZONING PROPERTY**Sections:

- 14.20.01 Annexing
14.20.02 Rezoning

14.20.01 Annexing

- Ord. No. 1986-16 Part of Lot 61-1 & 61-3 of Ozark Country Estates, Phase 2
Ord. No. 1995-1 Part of Lot 5 of Ozark County Estates, Phase 2
Ord. No. 1996-2 Part of West ¼ of NW ¼ of Sec. 26, twp 10 N, Range 27 West
Ord. No. 1998-18 Part of NW ¼ of SE ¼ of Sec. 33, Twp 10 N, Range 27 West
Ord. No. 2000-9 Part of SE ¼ of Sec. 24, Twp 10 N, Range 27 West
Ord. No. 2005-12 See legal description
Ord. No. 2006-12 See legal description
Ord. No. 2007-8 Part of NE ¼ of SW ¼ of Sec. 4, Twp 9 N, Range 27 West
Ord. No. 2009-4 Part of SE ¼ of SW ¼ of Sec. 33, Twp 10 N, Range 27 West
Ord. No. 2011-1 Tract in Sec. 1 & 2 in Twp 9 N, Range 27 West in Franklin County

14.20.02 Rezoning

- | | | |
|------------------|-----------------|---|
| Ord. No. 1982-15 | To R-3 | Part of SE ¼ of Sec. 25, Twp 10 N, Range 27 West |
| Ord. No. 1983-3 | To R-2 | Part of NE ¼ of Sec. 36, Twp 10 N, Range 27 West |
| Ord. No. 1983-4 | To C-2 | Part of NW ¼ of Sec. 26, Twp 10, N, Range 27 W |
| Ord. No. 1984-1 | From I-1 to C-2 | Part of SE ¼ of Sec. 26, Twp 10, N, Range 27 West |
| Ord. No. 1984-3 | To C-2 | SE ¼ of Block 7, Fleeman's Addition |
| Ord. No. 1984-4 | From C-2 to R-2 | Lot 2 of River Heights Addition |
| Ord. No. 1984-7 | To C-2 | Part of SW ¼ of Sec. 34, Twp 10 N, Range 27 West |
| Ord. No. 1985-4 | To I-1 | Secs 27 & 28, Twp 10 N, Range 27 West |
| Ord. No. 1985-1 | To C-2 | Part of Block 10 of Fleeman's Addition |
| Ord. No. 1985-7 | To C-2 | Part of N ½ of Sec. 33, Twp 10 N, Range 27 West |
| Ord. No. 1985-8 | To R-2 | Part of NW ¼ of Sec. 35, Twp 10 N, Range 27 W |
| Ord. No. 1985-9 | To C-2 | Part of SE ¼ of Sec. 22, Twp 10 N, Range 27 West |
| Ord. No. 1986-5 | To C-2 | Block 8, Fleeman's Addition |
| Ord. No. 1986-7 | To O-M | Part of Lots 1, 2 & 3 of Block 14 of Boles Addition |
| Ord. No. 1986-11 | To C-2 | Part of SE ¼ of Twp 10 N, Range 27 West |
| Ord. No. 1986-10 | To C-1 | 317 West Main |
| Ord. No. 1988-2 | To C-2 | 1209 North Third Street |
| Ord. No. 1988-11 | To C-2 | Part of Block 35 |
| Ord. No. 1988-12 | To C2 | Part of SW ¼ of Sec. 25, Twp 10 N, Range 27 West |
| Ord. No. 1988-13 | To C-2 | Part of NW ¼ of Sec. 26, Twp 10 N, Range 27 W |

Ord. No. 2000-5	From R-1 to C-2	310 E. Commercial Street
Ord. No. 2001-6	From R-1 to C-2	2200 North 18 th Street
Ord. No. 2001-12	From R-1 to C-2	208 South 17 th Street
Ord. No. 2002-10	From R-1 to C-2	1501 North 18 th Street
Ord. No. 2002-15	From R-1 to C-2	1312 North 3 rd Street
Ord. No. 2003-16	From R-1 to C-2	104 South 7 th Street
Ord. No. 2005-8	From R-1 to C-2	2400 North 18 th Street
Ord. No. 2005-11	From R-1 to C-2	913 North 18 th Street
Ord. No. 2007-5	From R-1 to C-2	500 North 29 th Street
Ord. No. 2007-6	From R-1 to C-2	South of Pleasant Homes subdivision
Ord. No. 2009-4	From R-1 to A-1	SW ¼ of Se. 33, Twp 10 N, Range 27 West
Ord. No. 2009-5	From R-1 to C-3	1113 North 3 rd Street.
Ord. No. 2009-6	From R-4 to C-2	1205 W. Commercial Street
Ord. No. 2009-8	From R-1 to R-2	806 W. Main St.
Ord. No. 2009-9	From C-3 to C-2	1113 North 3 rd Street
Ord. No. 2009-19	From R-1 to R-2	212 Alston Street
Ord. No. 2009-20	From R-1 to C-3	2713 W. Commercial Street
Ord. No. 2011-13	From R-1 to C-2	1007 & 1009 College and Lot 18 of Fleeman Add.
Ord. No. 2012-2	From R-1 to C-2	Lots 1, Block 19 in Walker Addition
Ord. No. 2012-3	From C-2 to R-2	1901 Farm Credit Drive
Ord. No. 2012-4	From R-1 to R-2	118 East College
Ord. No. 2012-6	From R-1 to R-2	701 N 12 th Street
Ord. No. 2013-10	From R-1 to C-3	700 North 15 th Street
Ord. No. 2014-2	From R-1 to C-2	1103 North 3 rd Street
Ord. No. 2014-3	From R-1 to C-3	2501 West Commercial
Ord. No. 2017-4	From R-1 to R-2	1006 West College Street
Ord. No. 2017-10	From R-1 to R-2	South ½ of East ½ of Block 26 of Fleeman's Add.
Ord. No. 2017-19	From R-1 to R-2	709 North 12 th Street
Ord. No. 2017-18	From R-1 to R-2	1610 West Gibson Street

ORDINANCE NO. 2010-7

**AN ORDINANCE TO ADOPT A REVISED SUBDIVISION CODE BY REFERENCE;
DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

WHEREAS, cities of the first and second class and incorporated communities have the power under Arkansas law to adopt and enforce plans for the coordinated, adjusted, and harmonious development of the municipality and its environs, and;

WHEREAS, the City of Ozark has grown, both in population and in the diversity and size of its economy over the years, and;

WHEREAS, The Ozark Planning Commission has prepared a revised subdivision code with the express purpose of carrying out the provisions of the master street plan and other plans duly authorized by the Ozark City Council; and

WHEREAS, the Ozark Planning Commission adopted a Subdivision Code on _____, 2010, after holding a duly authorized public hearing on September 2nd, 2010, and forwarded it to the City Council for consideration, and;

WHEREAS, copies of the Subdivision Code were ordered, and were filed in the office of the City Clerk of the City of Ozark for inspection and view by the public prior to the passage of this Code, and;

WHEREAS, The municipality forthwith gave notice to the public, by publication in a newspaper with general circulation within the municipality, stating that copies of the code, are and have been open to public inspection in the office of the City Clerk prior to the passage of the code adopted by reference as aforesaid.

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

Section 1: That the Subdivision Code is hereby adopted by reference as the Official Subdivision Code of and for the City of Ozark, pursuant to A.C.A. 14-55-207, by which three copies shall be filed with the Ozark City Clerk for public inspection.

Section 2: That any Code or Ordinance in conflict with this Code is hereby repealed.

Section 3: That the City Council, having found that the economic development of the City is being hampered by delay in adoption of this Code, an emergency is hereby found to exist, and this Ordinance shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED: _____

Mayor

Attest
City Clerk

TITLE 15

SUBDIVISION CODE

Chapters:

- 15.04 General Provisions
- 15.08 Definitions
- 15.12 Procedure and Requirements
- 15.16 Design
- 15.20 Required Improvements

CHAPTER 15.04

GENERAL PROVISIONS

Sections:

- 15.04.01 Policies
- 15.04.02 Purposes
- 15.04.03 Authority
- 15.04.04 Jurisdiction
- 15.04.05 Application
- 15.04.06 Resubdivision of Land
- 15.04.07 Enactment
- 15.04.08 Interpretation
- 15.04.09 Severability
- 15.04.10 Conflicting Regulations
- 15.04.11 Amendments
- 15.04.12 Waiver of Conditions and Variances
- 15.04.13 Appeals
- 15.04.14 Vacation
- 15.04.15 Enforcement
- 15.04.16 Penalty

15.04.01 Policies The policies underlying the provisions of this title are set forth in the following:

- A. It is declared to be the policy of the City of Ozark hereinafter referred to as “the city” to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the municipality pursuant to the Comprehensive Plan of the city for the orderly, planned, efficient, and economical development of the community. The term “adopted plans” shall specifically include any officially adopted plan concerning the physical development of Ozark.
- B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities, and improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the provisions and standards contained in the building code, zoning code, Comprehensive Plan, Official Zoning Map, and other capital budgets and programs of the city.
- D. Except in cases where the Fire Chief or Marshall has discretionary authority or the City has adopted more stringent regulations. The Arkansas Fire Prevention Code shall supersede any regulations contained herein.
- E. Land that has been subdivided prior to the effective dated of these regulations should, whenever possible, be brought within the scope of these regulations.

15.04.02 Purposes These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety, and general welfare of the city;
- B. To guide the future growth and development of the Planning Area in accordance with the Comprehensive Plan, including the Master Street Plan;
- C. To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population;
- D. To protect the character and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development of the city through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-

residential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development;

- E. To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;
- F. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities;
- G. To provide the most beneficial relationship between the uses of land and buildings and the connectivity and circulation of traffic throughout the city, having particular regard for the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;
- H. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land;
- I. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land;
- J. To preserve the natural beauty and topography of the municipality and to ensure appropriate development with regard to these natural features;
- K. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning code of the city;
- L. To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered and low-grade subdivision.

15.04.03 Authority This Land Subdivision and Development Code is promulgated in accordance with the authority cited in Arkansas Code Annotated § 14-56-401 through § 14-56-426.

15.04.04 Jurisdiction These regulations shall be applicable to all lands within the city and its Planning Jurisdiction and, also, to lands either contiguous to or served by Ozark's city water or Ozark's city sewer. The Planning Jurisdiction will include those areas depicted on the Planning Area Map, copies of which are on file with the City Clerk of the city and the Franklin County Recorder.

15.04.05 Application These regulations and development standards shall apply to the following forms of land subdivision and development.

- A. All subdivisions or platting of a tract lot parcel of land into two or more tracts, lots, sites, or parcels, any of which, when subdivided, shall contain less than five acres in area.
- B. The dedication or vacation of any street or alley through any tract of land regardless of the areas involved as may be desired by the owner or if necessary to achieve conformance with the Comprehensive Plan; or
- C. The construction of any street or public utility through any tract of land within the Planning Area Boundary of the city as stated herein.
- D. Large-scale Developments: The following types of development shall be deemed a large-scale development and subject to the requirements of this code:
 - 1. Buildings or developments placed on a lot of land three (3) acres or larger
 - 2. A development on one lot containing a building or buildings with a combined square footage of 10,000 square feet or larger.
 - 3. All multi-family housing developments with more than 20 units.
 - 4. Any commercial building or establishment designed or intended for the sale of petroleum or other flammable products or any commercial or industrial use with accompanying hazards.
 - 5. Routine commercial developments not meeting any of the criteria listed above shall not require planning commission approval. However, in unique cases, the building inspector may require planning commission approval prior to the issuance of a building permit.
- E. Exempted Developments: The following types of development shall be exempted from the requirements of this code:
 - 1. The division of land into tracts of five acres or greater which does not involve the dedication, vacation, or reservation of any public or private easement, including those of public or private utilities, through any of the tracts involved shall not constitute a subdivision.

2. The City's engineer may exempt a minor purchase of a portion of an adjoining parcel where the size of the land being acquired is smaller in area than the minimum lot for the appropriate zoning and where it can be determined that the purposes of the Land Development and Subdivision Code are not being subverted.

15.04.06 Resubdivision of Land Re-subdivision of land may be accomplished as follows:

- A. Any change in an approved or recorded plat other than lot splits or re-combinations shall be considered a re-subdivision and subject to approval by the city. For re-subdivision, the same rules, regulations, and procedures applicable to subdivision shall apply.
- B. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots may eventually be subdivided into smaller building sites, the city may require that such parcel of land allow for the future opening of streets and the extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement before plat approval is given.

15.04.07 Enactment In order that land may be subdivided in accordance with these purposes and policies, these regulations are hereby adopted and made effective as of the date of adoption. All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if preliminary plat approval was obtained prior to the effective date of these regulations and the subdivider had constructed subdivision improvements prior to submission of the final plat as required by the municipality unless the Planning Commission determines on the record that application of these regulations is necessary to avoid a substantial risk of injury to public health, safety, and general welfare.

15.04.08 Interpretation In their interpretation and application, the provisions of these regulations shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they were adopted. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

15.04.09 Severability If any part of provision of these regulations or the applications of under the regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it

shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Ozark City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

15.04.10 Conflicting Regulations Upon the adoption of these regulations any existing regulations in conflict with this code are hereby repealed.

15.04.11 Amendments On any proposed amendments to these regulations, the Planning Commission shall hold a public hearing, for which fifteen days advance notice in a local newspaper of general distribution has been published. Following such a hearing, the City may adopt the amendment or amendments as determined by a vote of the Planning Commission followed by legal adoption of the regulations by vote of the City Council.

15.04.12 Waiver of Conditions and Variances Where the Planning Commission finds the extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances, exceptions and waiver of conditions to these regulations so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver conditions shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Commission shall not approve variances, exceptions, and waiver of conditions unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance, exception, or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property;
 2. The conditions upon which the requests are based are unique to the property for which the relief is sought and are not applicable generally to other property;
 3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 4. The relief sought will not in any manner vary the provisions of the Zoning Code, or Comprehensive Plan, except that those documents may be amended in the manner prescribed by law.
 5. That in addition to the conditions listed above, there would be no public benefit served by a strict application of the pertinent regulations.
- A. Conditions of Waiver or Variance In approving variances, exceptions, or waivers of conditions, the Planning Commission may require such conditions as will, in its judgment, secure substantially the purposes of these regulations.

- B. Procedures for Waivers and Variances A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
- C. Waivers-Findings Such findings of the planning commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the planning commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety or welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

15.04.13 Appeals Appeals of decisions by either any administrative official or the planning commission shall be handled by the Board of Zoning Adjustment as outlined in the Ozark Zoning Code.

15.04.14 Vacations Vacation of existing plats may be carried out according to the following regulations.

- A. Any plats or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.
- B. Such an instrument shall be approved by the Planning Commission in like manner as plats of subdivisions. The City Council may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- C. Such an instrument shall be executed, acknowledged, or approved, and recorded or filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- D. When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

15.04.15 Enforcement In addition to the requirements established herein, all subdivision plats shall comply with all other applicable rules, regulations, and laws including, but not limited to: Comprehensive Plan, Zoning Ordinance (within the City's corporate limits), building and housing codes, and any other regulations adopted by the City Council; and any regulations or special requirements by the State Health Department, State Highway and Transportation Department, or other appropriate State agencies. It shall be the duty of the Building Inspector

and the Planning Commission to enforce these regulations and to bring to the attention of the Mayor and the City Attorney any violations or lack of compliance herewith.

In order to carry out the purposes of the regulations and to assure an orderly program of land development after the effective date of these regulations:

- A. No plat of any tract of land within the planning area jurisdiction of the Planning Commission shall be accepted by the Circuit Clerk-Recorder for filing of record unless the plat has been approved by the Planning Commission.
- B. No conveyance by metes and bounds of tracts or lots coming under the definition of subdivision of land, within the planning area jurisdiction, without compliance with the applicable provisions of this Code or amendments thereto shall be permitted.
- C. No dedication of streets shall by itself be accepted by the City unless the usage of the adjoining, affected land is shown; if the purpose of opening the street is to make the affected land available for sale as a redevelopment or subdivision, the street may not be accepted until accompanied by the required plat.
- D. No public utility, whether publicly or privately owned, shall provide, extend, or authorize the extension of services to any lot, building, structure, or location within the area under the jurisdiction of the Planning Commission unless:
 1. The lot, building, or structure was established before the adoption of this Subdivision Code; or
 2. A plat of the location has been approved by the Planning Commission and filed and recorded in the office of the Circuit Clerk-Recorder; or
 3. The plan for the proposed service by the public utility has been approved by the Planning Commission as provided in the State Statutes.
- E. No building permit shall be issued for any new structure on any lot or tract of land which does not comply with all of the provisions of this Code, including the installation of all improvements adjacent to or associated with said lot.
- F. If the Planning Commission disapproves a portion of the improvements as having not satisfied the improvement plan or conditions stated herein:
 1. The City Building Inspector shall advise the developer in writing of the deficiencies.
 2. The City Building Inspector may issue an order to cease all work on the improvements of the development.

3. The City Building Inspector shall advise the mayor and the City Council of any notices of enforcement actions taken.
4. The Planning Commission shall review and issue requirements necessary to settle all unresolved disputes with the developer.

15.04.16 Penalty Any person, firm, or corporation that violates any provision of these regulations or amendments thereto shall be guilty of a misdemeanor and on conviction shall be fined not less than one hundred dollars (\$100.00). Each day that violation of these regulations is in effect shall constitute a separate offense and be subject to additional fines of one hundred dollars (\$100.00) per day. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building structure or premises, and these remedies shall be in addition to the penalties described above.

CHAPTER 15.08

DEFINITIONS

Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices. Wherever used in this code, the “may” is permissive, while the word “shall” is mandatory. For the purposes of interpreting this code, certain words used herein are defined as follows:

Alley A minor public way used for utility easement and vehicular service access to the back side of properties abutting a street.

Bond Security in the form of and limited to a cash deposit surety bond underwritten by a bonding company licensed to do business in the State of Arkansas, or instrument of irrevocable bank credit in an amount and form satisfactory to the City that can be unilaterally drawn upon by the City for the completion of proposed improvements by a developer.

Boundary Street An existing street abutting on any side of the parcel of land being subdivided.

Boundary Street Improvement All improvements and right-of-way dedications necessary to meet the standards set forth in the city’s Master Street Plan/Comprehensive Plan transportation element and the city’s storm water management regulations.

Building Line The line within a property, which defines the minimum horizontal distance between the building and the adjacent property line.

City City of Ozark, Franklin County, Arkansas

City Engineer, City Attorney, City Clerk, Building Inspector Any office referred to in this Code by title shall be the person so retained in this position by the City, or his/her duly authorized representative.

Cul-de-sac A local street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.

Circuit Clerk/County Recorder The Circuit Clerk of Franklin County, Arkansas.

Easement A grant by the property owner of the use, for a specific purpose or purposes, of land by the public, a corporation, or certain purposes.

Engineer A person duly authorized under the provisions of the Arkansas Engineering Registration Act to practice the profession of engineering in the State of Arkansas.

Improvements A betterment of the existing condition of the land, such as streets, extensions of utilities, grading or excavation, or other actions resulting in permanent changes in the condition of the land.

In-Lieu-Of Contribution A cash contribution for required improvements instead of immediate construction.

Incidental Subdivision Lot Splits, minor subdivisions, lot recombinations, replats, or one-lot subdivisions that require submittal to the planning commission.

Lot A distinct and separate undivided tract or parcel of land having access on a public street, which is, or in the future may be offered for sale, conveyance, transfer, or improvement as a building site.

Lot, Corner A lot located at the intersection of and abutting on two or more streets.

Lot, Double Frontage A lot which runs through a block from street to street and which has two non-intersecting sides abutting on two streets.

Lot, Reverse Frontage A double frontage lot which is designed to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Lot Split A lot-split is a subdivision which involves the dividing or re-dividing of a land area within any recorded subdivision, and which does not involve the dedicating, vacating, widening, narrowing, or changing of alignment of any thoroughfare, street, alley, or easement.

Minor Subdivision A subdivision or replat of a subdivision involving four lots or less, and in which no streets or easements are required, no waivers are requested, and the subdivision is not part of a larger tract to be developed in phases.

Pavement Width The portion of a street available for vehicular traffic; where curbs are laid, it is the distance from back of curb to back of curb.

Plat, Preliminary Any plat of any lot, tract, or parcel of land that is not to be recorded, but is only a proposed division of land that is presented for review and study by the Planning Commission; and to provide the basis for installing site improvements and utilities, and for dedicating and/or reserving land for public use.

Plat, Final Any plat of any lot, tract, or parcel of land requested for acceptance of site improvement and dedication of land for public use, and to be recorded in the deed and plat records of the Circuit Clerk.

Public Utility Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under regulations to the public, electricity, gas, telephone, television cable, telegraph, transportation, drainage, water, or sanitary sewerage.

Replating The subdivision of any part of previously a platted subdivision or lot.

Right-of-Way Dedicated public right-of-way providing vehicular and pedestrian access to adjacent properties.

Street A public right-of-way, however designated, which provides vehicular access to adjacent areas.

Street Right-of-Way Width The shortest distance between the lines which delineate the right-of-way of a street. It runs from abutting property lines to abutting property line.

Subdivider or Developer Any individual, association, firm, corporation or any agent thereof dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. The terms "subdivider" and "developer" shall be restricted to include only the owner, equitable owner, or authorized agent for such owner or equitable owner, or land to be divided. He/She is sometimes referred to herein as the "applicant."

Subdivision The division by platted lots or metes and bounds of any lots, tracts, or parcels of land situated within the jurisdictional area of the City of Ozark with two or more lots for sites for immediate or future purpose of sale or development, or for laying out residential, commercial, or industrial lots, streets, alleys, or portions intended for public use or the use of purchasers or owners of lots fronting thereon or of the land, lots, or tracts.

CHAPTER 15.12

PROCEDURE AND REQUIREMENTS

Sections:

- 15.12.01 General
- 15.12.02 Plat Requirements
- 15.12.03 Preliminary Plat
- 15.12.04 Final Plat
- 15.12.05 Minor Subdivisions
- 15.12.06 Large Scale Development

15.12.01 General A subdivider proposing to make or have made a subdivision within the territorial jurisdiction shall not proceed with any construction work on the proposed subdivision, including grading, before obtaining preliminary plat approval; nor shall he attempt to record the plat of the subdivision or any part thereof prior to obtaining final plat approval from the Planning Commission.

15.12.02 Plat Requirements The following pages outline specific requirements for all plat submittals.

Plat Requirements: City of Ozark, Arkansas						
	Sketch Plat	Preliminary Plat	Final Plat	Minor Subdivision	Large Scale Development	Replat or Lot Split
REQUIREMENTS	TYPE OF SUBMISSION					
A phasing plan outlining the boundaries for each phase and the location of all monuments for the subdivision			√			
Accurate locations and adequate physical descriptions of all monuments shall be shown indicating size, type of material and construction thereof.			√	√		
Adjoining property by activity and business name, if applicable;					√	
As-built drawings			√			
Bearings and distances, adjusted, shown on all boundary lines and ties		√	√	√	√	

Plat Requirements: City of Ozark, Arkansas

	Sketch Plat	Preliminary Plat	Final Plat	Minor Subdivision	Large Scale Development	Replat or Lot Split
REQUIREMENTS	TYPE OF SUBMISSION					
to all corners of record utilized. Where boundary lines are curves, sufficient curve data shall be provided to adequately describe and field locate the curve. As a minimum, curve data for each curve shall consist of radius, arc distance, delta angle and chord bearing and distance. Where boundary lines are common with previously platted properties, record bearings and distances shall also be shown.						
Bill of assurance proposed for the subdivision generally describing proposed covenants, restrictions and conditions applicable to a property shall be submitted for review at the time of preliminary plat review.	√		√			
Boundary lines indicated by a heavy line						
Building outline, sidewalks, curbs, drives, parking, and striping.					√	
Existing trees greater than 18 inches in diameter		√			√	
Certificate of engineering accuracy			√			
Certificate of owner			√			
Certificate of surveying accuracy		√	√			
Certifications that the plat of the subdivision boundary has been surveyed and duly filed for record in the offices of the state surveyor		√	√			
Covenants, restrictions or bill of assurance, existing and/or proposed						
Cultural and natural features and flood plain	√					
Curb cuts for development and curb cuts of adjacent properties; including those across the street, street intersections; these items shall be dimensioned relative to each other, proposed.					√	
Development Type					√	
Drainage improvements and drainage runoff quantities (cubic feet per second), prepared by a Professional Engineer, with points of entry and exit for the development, show flood hazard area.					√	
Exterior lighting quantity, direction, and pattern					√	
Exterior speaker location (s) and direction (s)					√	
Fees		√	√	√	√	

Plat Requirements: City of Ozark, Arkansas

	Sketch Plat	Preliminary Plat	Final Plat	Minor Subdivision	Large Scale Development	Replat or Lot Split
REQUIREMENTS	TYPE OF SUBMISSION					
Homeowners Association rules		√	√			
License number and registration for all professionals		√	√	√	√	√
Location of tract by legal description giving acreage to the nearest one-tenth of an acre			√	√	√	√
Municipal and or county boundaries that pass through or abut the subdivision.		√	√	√	√	√
Name and address of developer.	√	√	√	√	√	
Name and address of owner of record	√	√	√	√	√	
Name of Development					√	
Name of Subdivision		√	√	√		√
Static pressure and flow of the nearest hydrant		√			√	
Open space/green space/landscaping, proposed			√	√	√	
Point of beginning from a permanent well defined reference point, clearly labeled.			√			
Proof property taxes are current		√				
Soil tests where indicated		√			√	
Source of title to property giving deed record book page number or instrument #			√		√	
Street names, class per Master Street Plan, rights-of-way, centerlines, and easements bordering or transversing the property.					√	
Subdivision Type	√	√	√			
Tabulation by lot and /or tract showing area and width at front setback line		√		√		
Vicinity Map covering a minimum area within a radius of one-half mile of the proposed subdivision at a scale of at least (1) inch to two thousand feet. The vicinity map shall generally locate arterial streets, highways, section lines, railroads, schools, parks and other significant community facilities.	√		√			
Written approval of any wastewater treatment facilities by the AEDQ,		√	√	√		

Plat Requirements: City of Ozark, Arkansas							
	Sketch Plat	Preliminary Plat	Final Plat	Minor Subdivision	Large Scale Development	Replat or Lot Split	
REQUIREMENTS	TYPE OF SUBMISSION						
Arkansas Dept. of Environmental Quality							
Written approval of water and wastewater facilities from the Arkansas State Dept. of Health		√	√	√			
Zoning classifications within the plat and abutting areas		√	√				

15.12.03 Preliminary Plat When any subdivision of a tract of land is proposed to be made, the subdivider or his agent shall submit to the Planning Commission a letter of intention, which may at the option of the subdivider include a preliminary sketch plan. The subdivider's letter shall indicate the location and size of the tract, the proposed time schedule, the date on which the subdivider proposes to submit his preliminary plat for Planning Commission review, and such other information as the subdivider deems important for recognition by the Planning Commission.

If the proposed subdivision is a portion of a tract which is later to be subdivided in its entirety, then a tentative master plan for the entire subdivision shall be submitted with the preliminary plat of the portion first to be subdivided. The master plan shall conform in all respects to the requirements of the preliminary plat, except that it may be on a scale of not more than 1" = 200', and all dimensions may be scaled.

Upon review of the letter of intention, the Planning Commission may recommend a Pre-Application Conference to be held between the subdivider, a committee of the Planning Commission, and/or the Planning Commission's designated agents for land planning and engineering.

- A. **Pre-Application Conference** When a major subdivision of a tract of land within the Planning Commission's jurisdiction is proposed, the subdivider is urged to consult early and informally with the administrative staff of the City and/or designated members of the Planning Commission. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision.

At such meeting, the general character of the development will be discussed and items will be included concerning zoning, utility service, street requirements, and other pertinent factors related to the proposed subdivision.

The purpose of the Pre-Application review is to afford the subdivider an opportunity to avail himself of the advice and assistance of the Planning Commission in order to facilitate the subsequent preparation and approval of plans.

B. Application for Certificate of Preliminary Plat Approval Whenever a subdivision or large scale development is proposed to be made and before any sale of lots located in said subdivision as a whole or any part thereof is made, or before building permits are approved, the subdivider shall first submit twenty (20) days prior to the planning commission meeting at which consideration is requested an application for a Certificate of Preliminary Plat Approval to the planning commission which shall consist of:

1. A letter of request, including requests for any waiver(s) of conditions from the regulations contained herein.
2. Plats, plans and data as specified in Section 15.12.02, concerning existing conditions within the site and its vicinity and which shall convey the intentions of the subdivider as to the proposed layout and type of development. Five (5) copies such plans shall be made available to the planning commission
3. The subdivider shall pay a fee of \$50.00 plus \$2.00 for each lot in the subdivision, to the City of Ozark. Payment is due upon application for a preliminary plat.
4. Source of title to the property

C. Construction Drawings The subdivider or designated representative must submit complete construction drawings for the proposed subdivision in the following manner.

1. With approval of the City's engineer, the subdivider may postpone submittal of construction drawings until after the preliminary plat is approved. The city shall not issue an Authorization to Proceed, however, until the City's engineer has received and approved construction drawings.
2. Construction drawings shall include the plans and profiles for all streets, drainage, water, sewer and all utility easements, typical cross sections, detail drawings and specifications. The City's engineer or his designee shall review and approve the drawings and notify the Developer, Planning Commission, and other city staff of the result of this review.

D. Planning Commission Action The Planning Commission shall review preliminary plats at its regularly scheduled monthly meeting at which time interested persons may appear and offer evidence in support of or against such preliminary plat. The Planning Commission shall then approve, conditionally approve, deny or defer the plat. No construction may commence on any portion of the development until an Authorization to Proceed has been issued by the Planning Commission Chairman.

1. Approval of the Preliminary Plat The following describes the process by which the preliminary plat is approved. A preliminary plat approved by the Planning Commission with a Certificate of Preliminary Plat Approval shall be effective and binding upon the Commission for a period not to exceed twelve (12) months or as long as work is actively progressing, at the end of which time the final plat application for the subdivision or an extension request must have been submitted to the planning commission. Any plat not receiving final approval or an extension with the period of time set forth herein or otherwise not conforming to the requirements of this regulation, shall be null and void, and the developer shall be required to submit a new plat of the property for preliminary approval subject to all zoning restrictions and these regulations.

The preliminary plat will be approved by the Planning Commission when the applicant has provided clear and convincing evidence that:

- a. Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;
- b. If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations.
- c. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions.
- d. The existing municipal transportation is adequate to accommodate the traffic to be generated by the subdivision. The Planning Commission may require, as part of plat approval, a traffic study, prepared by a professional traffic engineer and paid for by the developer, demonstrating that existing street can handle the proposed traffic.
- e. The developer has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.

2. Disapproval of the Preliminary Plat Disapproval of a preliminary plat shall be governed by the following.
 - a. A disapproved Preliminary Plat may be resubmitted. The plat shall be submitted to the City's engineer for review as outlined in this regulation for an original preliminary plat submission.
3. Authorization to Proceed with Construction Receipt of an approved or conditionally approved copy of the preliminary plat, together with an approval by the City engineer of the construction drawings shall constitute authorization by the Planning Commission for the subdivider to proceed with the preparation of the final plat, the installation of improvements, and the staking out of lots and blocks. The subdivider, after conditional approval of the preliminary plat, shall complete all improvements required under this Code.

E. Other Requirements

1. Engineering Analysis In addition to the submittals required in Section 15.12.02, the following engineering analyses shall be submitted with preliminary plat.
 - a. Street profiles shall be included showing existing and proposed elevations along center lines of all roads drawn at a horizontal scale of 20' to 50' to the inch and a vertical scale of 2' to 5' to the inch, or as otherwise allowed by the City's engineer's Office. Such profiles shall be prepared by an engineer registered to practice in the State of Arkansas.
 - b. At the option of the City's engineer, street cross sections of all proposed streets shall be included at a minimum of fifty (50) foot stations as follows: On a line at right angles to the centerline of the street, said elevation points shall be at least at the centerline of the street, at each property line and at points twenty-five (25) feet inside each property line.
 - c. Flood plain Analysis - Where a portion of a plat is suspected to be flood prone, and the U.S. Army Corps of Engineers information is not available, an engineering analysis shall be required by the City's engineer. Such analysis shall determine to the best of the engineer's ability a safe building line and shall be clearly and legibly drawn on the preliminary plat.
 - d. Soils Test - Soils tests may be required by the City's engineer where it is suspected that soil conditions may affect structural or operational aspects of the facilities to be constructed. Such circumstances may include the stability of slopes, foundation

conditions, and potential hazards created by deep cuts and fills required for street or utility construction and similar situations.

2. Survey Standards All surveying must be done by a Professional Surveyor and must be conducted to the Arkansas Minimum Standards for property Boundary Surveys and Plats.
3. Preliminary Plat Certificates Each preliminary plat submitted to the Planning Commission shall carry the following certificates as appropriate:

Certificate of Surveying Accuracy

I, _____, hereby certify that this plat correctly represents a boundary survey made by me and all monuments shown herein actually exist and their location, size, type and material are correctly shown.

Signed _____

Date of Execution _____ Name _____

Professional Surveyor No. _____ Arkansas

Certificate of Preliminary Engineering Accuracy

I, _____, hereby certify that this plat correctly represents a plat made by me, and that engineering requirements of the Ozark Subdivision Code have been complied with.

Signed _____

Date of Execution _____ Name _____

Professional Engineer No. _____ Arkansas

Certificate of Preliminary Plat Approval

All requirements of the Ozark Subdivision Code relative to the preparation and submittal of a Preliminary Plat having been fulfilled, approval of this plat is hereby granted, subject to further provisions of said Rules and Regulations. This Certificate shall expire:

Date of Execution _____

Chairman, Ozark Planning Commission _____

City's engineer _____

15.12.04 Final Plat

A. Application for Approval of the Final Plat Whenever the provisions of these rules and regulations have been complied with and while the Certificate of Preliminary Plat Approval is in effect, the subdivider may submit to the Ozark Planning Commission an application for review and approval of the Final Plat which shall consist of:

1. A letter of application requesting review and final approval of the plat.
2. Five copies of the final plat and other documents as specified in Section 15.12.02.
3. The subdivider shall pay a fee of \$10.00 plus \$0.50 for each lot in the subdivision, to the City of Ozark. Payment is due upon application for final plat approval.
4. The final plat shall show all certificates as specified in Section 15.12.02, and with the Certificate of Owner, Certificate of Engineering and Certificate of Surveying Accuracy being executed.
5. If all improvements have not been installed, a performance bond based on equal value of the estimated cost plus 25 percent of the improvement.
6. The final plat shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat that the subdivider proposes to record and develop at any one time, provided that such portion conforms to the requirements of these rules and regulations.

- B. Approval of the Final Plat There shall be a minimum time between preliminary plat approval and final plat review by the commission of two months.

The final plat of the proposed subdivision shall be submitted to the Planning Commission for final approval while the Certificate of Preliminary Plat Approval remains in effect. If not submitted for final approval within such time, the preliminary plat shall be considered as having been abandoned, unless the Planning Commission agrees to an extension of time.

If the subdivider requests permission to develop only a portion of the property for which the preliminary plat was approved, the Planning Commission may grant approval of a final plat for said portion alone. For residential plats such stages shall contain at least three (3) lots of the approved preliminary plat seeking final plat approval. The Planning Commission may require a performance bond for the public improvements in an amount as commensurate with the stage of the plat being filed and may defer additional performance bond requirements until additional stages of the plat are offered for filing.

The Planning Commission shall approve or disapprove the final plat within forty-five (45) days of receipt thereof; otherwise said final plat shall be deemed to have been approved, and the certificate of said Commission as to the date of submission of said final plat for approval and as to the failure to take action thereon within such time shall be sufficient in lieu of approval. Disapproval of the plat shall be transmitted to the subdivider with the reasons therefor within a reasonable time after the meeting at which the plat was disapproved.

The original plat and all copies shall be retained and distributed in accordance with the provisions contained herein

Final Approval of the Final Plat shall be indicated by the execution of a Certificate of Final Plat Approval on the Plat. The Commission may execute a Certificate of Final Plat Approval when the City Clerk and the planning commission has determined that the sub-divider has fully complied with the provisions contained herein.

Approval of the final plat by the Planning Commission shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds, nor does it constitute authority for the plat to be recorded.

- C. As-Built Drawings Upon completion of the installation of the improvements required by these rules and regulations, the subdivider shall present to the City's engineer one complete set of the "as built" construction plans and drawings showing the subdivision and its improvements. This set of plans and drawings shall include:

1. Plans of all streets and alleys showing the location of all utility lines.

2. Centerline profiles of all streets.
3. Profiles or invert elevations of all storm and sanitary sewerage lines as such improvements shall have actually been installed by the subdivider.
4. A letter submitted by a Professional Engineer certifying that all improvements and installations have been made in accordance with the submitted construction plans and drawings and the standards established by the city or the county, and said improvements and installations are functioning properly.

D. Acceptance of Public Dedications Before the Final Plat is recorded in the office of the County Recorder, an agreement shall be reached between the subdivider or his agent and the City Council. Said agreement shall be with regard to the installation of any street improvements to utility construction called for in the subdivision plat; the dedication and/or reservation of lands for public use; the dedication and acceptance of utilities and improvements; and other agreements as required in the Planning Commission's approval of the plat. The City Council must receive one of the following prior to accepting the public dedications and before the final plat will be eligible for recording:

1. A certificate submitted by the subdivider and approved by the City Council, stating that all required improvements and installations to the subdivision have been made, added, or installed; or
2. A cash deposit in the full amount as determined by the City, necessary to complete the improvements and installations in compliance with this Code for the portion of the subdivision for which final plat approval is sought. Such cash deposit may be withdrawn in direct proportion to the amount of work completed as approved by the City; or
3. An executed agreement with the City which shall:
 - a. Be in an amount determined by the City to be sufficient to complete the improvements and installations for the subdivision in compliance with this Code.
 - b. Specify the time for the completion of the improvements and installations.
 - c. Be accompanied by a performance bond which shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution. The period of time shall be specified in the resolution approving the final plat and shall be incorporated in the bond, and shall not in any event exceed two (2) years from the date of final approval.

- E. Warranty The developer shall warranty all improvements of the subdivision for a minimum of one year after the as-built drawings have been accepted in writing by the city and the defects of subgrade or pavement have been last repaired. Repairs shall be made by the developer in accordance with applicable construction standards. Repairs shall include, limited to, localized pavement surface failures, subgrade failures, and drainage deficiencies.
- F. Recording Upon approval of the final plat and acceptance of the public dedications by the City Council, the Planning Commission shall have the final plat recorded in the office of the Circuit Clerk. The subdivider shall pay all fees in connection with the recording of said plat.

The final plat shall be filed in the office of the Circuit Clerk within two (2) years after approval by the Planning Commission; and if not filed within such time, said approval shall be considered as having been abandoned.

Upon recording the plat, the City shall retain the original tracing and one copy for the Planning Commission's files, one copy shall be forwarded to the Tax Assessor and one copy shall be returned to the subdivider.

- G. Final Plat Certificates - Each final plat submitted to the staff for approval shall carry the following certificates printed thereon.

Certificate of Owner	
<p>We, the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided, and do hereby lay off, plat, and subdivide said real estate in accordance with this plat.</p>	
Signed _____	Date of Execution _____
Name: _____	Address: _____
Source Of Title: Book ____ Page ____	Instrument Number: _____

Certificate of Recording

This document, number _____ filed for record _____, 20 _____
Plat Book _____ Page _____

Signed _____

Name: _____ Clerk: _____

Certificate of Engineering Accuracy

I, _____, hereby certify that this plat correctly represents a plat made by me, and that engineering requirements of the Ozark Subdivision Code have been complied with.

Signed _____

Date of Execution _____ Name _____

Professional Engineer No. _____ Arkansas

Certificate of Surveying Accuracy

I, _____, hereby certify that this plat correctly represents a boundary survey made by me and all monuments shown herein actually exist and their location, size, type and material are correctly shown.

Signed _____

Date of Execution _____ Name _____

Professional Surveyor No. _____ Arkansas

Certificate of Final Plat Approval

All requirements of Ozark Subdivision Code relative to the preparation and submittal of a Preliminary Plat having been fulfilled, approval of this plat is hereby granted, subject to further provisions of said Rules and Regulations. This Certificate shall expire:

Date of Execution _____

Chairman, Ozark Planning Commission _____

City's engineer _____

15.12.05 Minor Subdivisions When a lot-split or minor subdivision, as defined, is involved, the subdivider shall prepare and file with the Planning Commission an Application for Approval of Lot-Split or Minor Subdivision. Said Application shall be filed with the planning commission at least twenty (20) days prior to a regular meeting of the Planning Commission.

The Application for Approval of Lot-Split or Minor Subdivision shall consist of a letter, a map, and such other data and information as may be desirable to support the Planning Commission's approval. Three (3) copies of the Plat Map shall be included with the Application; and the letter shall state the subdivider's intention regarding the lot-split or minor subdivision. The required content of the plat is set forth below in Section 15.12.02.

The planning commission is hereby authorized to review the Application for Approval of Lot-Split or Minor Subdivision and provide approval. The Planning Commission shall review the final plat of the minor subdivision or lot split. If the final plat is satisfactory in light of the objectives of this Code and all required information is contained thereon, the Planning Commission shall certify its approval of the plat, make proper notation on the original tracing of said plat, and permit the plat's recording in the office of the Circuit Clerk-Recorder.

15.12.06 Large Scale Developments

- A. Procedure The Developer of the commercial or large-scale development shall prepare and file with the Planning Commission an application for approval of development. Said application shall be filed at least twenty (20) days prior to a regular meeting of the Planning Commission.
- B. Fees Fees for the filing of Large Scale Developments shall be one hundred (\$100.00) dollars. The applicant shall submit all necessary fees and meet all submittal requirements at the time of the filing application.

- C. Application The application for approval of the development shall consist of a letter (describing the intended uses of the buildings), a site plan, and such other data and information that may be desirable to support the Planning Commission's approval. five (5) copies of the site plan, prepared by a registered engineer or licensed surveyor, shall be included with the application. The application must be signed by the owner of the property (supported by a deed of record), and any person representing the owner or developer before the Commission. The site plan shall contain all information as outlined in Section 15.12.02
- D. Planning Commission Procedure The Planning Commission shall review the application at the next regularly scheduled meeting after receiving the completed application with all required attachments. If the Commission determines that the development is appropriate, as submitted, then it shall approve it. The Commission may require the developer change the plan as submitted, and may disapprove applications that conflict with any of the provisions of this code. The City Council may (upon referral from the Planning Commission), disapprove applications that relate to the building of a structure deemed to be unsafe, unsanitary, obnoxious or detrimental to the public welfare. [See A.C.A. - 14-56-202]
- E. Building Permit Upon obtaining approval from the Planning Commission, the developer may commence construction after obtaining a building permit and any other required permits.
- F. Limitations The approval from the Planning Commission shall be limited to the type of building/development stated within the letter accompanying the application. Should the developer decide to build or develop on the property in a manner inconsistent with the use as stated in the letter and site plan accompanying the application, the applicant must submit a new application to the Planning Commission for approval. Should the developer build or develop the property for a use contrary to the use stated in his application, the approval previously granted by the Planning Commission shall become null and void, and the developer shall cease construction/building on the property upon receipt of notice from the city Building Inspector, City's engineer, City Attorney, or Mayor.

CHAPTER 15.16

DESIGN

15.16.01 Conformance to Existing Plans The purpose of this portion of the Code is to specify the basic and minimum requirements for lots, blocks, streets, and other physical elements in new subdivisions. These standards constitute the minimums which are to be observed by developers. In order that the various purposes of this Code may be accomplished, all subdivisions hereinafter established (1) shall conform with the various elements of the Comprehensive Plan including the location of major thoroughfares and streets, the location of

parks, playgrounds, schools and other public sites, and appropriate land uses; and (2) shall be designed to conform with the minimum zoning and building regulations for the are in which the proposed subdivision is located.

15.16.02 Suitability of Land Lands subject to flooding or topographically unsuitable for residential occupancy and which the Planning Commission considers unsuitable for subdividing shall not be platted for any use that may increase the danger to health, life, or property, or aggravate erosion of flood hazard. If such land is in the proposed plat, this land shall be set aside for such land uses as will not be affected by periodic flooding or unsuitable topographic conditions unless adequate corrective measures are formulated by the developer and approved by the Planning Commission.

15.16.03 Design where Future Resubdivision is Indicated Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will be eventually resubdivided into small building sites, the Planning Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

15.16.04 Provision of Land for Public Use The Planning Commission may require reservation of suitable sites for public uses indicated on the Comprehensive Plan for a period of up to twelve (12) months after the filing of a Letter of Intent to Develop by the subdivider. Such reservations shall be referred to the appropriate public board, commission, or body having jurisdiction or financial responsibility, to permit the opportunity to acquire said sites either through purchase, taking an option, or the filing of condemnation proceedings under the power of eminent domain. The failure or refusal of any public entity to acquire lands designated as suitable sites for public uses within twelve (12) months of the filing of a letter of intent to develop by the subdivider shall relieve the subdivider of any responsibility to hold such land for future public purposes.

15.16.05 Subdivision Design Standards The quality of design of the urban area is dependent on the quality of design of the individual subdivisions that comprise it. Good community design requires the coordination of the efforts of each subdivider and developer in the urban area. Therefore, the design of each subdivision shall be prepared in accordance with the principles established by the Comprehensive Plan for land use, traffic circulation, community facilities, and public utility services, and in accordance with the following design standards:

- A. Streets The arrangement, character, extent, width, grade, and location of all streets shall conform to the elements of the Comprehensive Plan and shall be designed in accordance with the following provisions:

Local residential streets shall be laid out so that their use by through traffic will be discouraged. The arrangement of streets shall be such as to cause no hardship in the subdividing of adjacent properties. The Planning Commission may require the dedication of street rights-of-way to facilitate the development of adjoining properties.

Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider. Furthermore, proper access in the form of stub streets or temporary dead-end streets shall be provided to adjacent unplatted property unless, in the judgement of the Planning Commission, topographic conditions or similar physical impediments preclude reasonable provision of such access, or alternate routes of access are, or will be, available in the future.

Whenever a subdivision abuts or contains an existing or proposed major street, the Planning Commission may require service streets, reverse frontage with planting contained in a non-access reservation along the rear property line, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. There shall be no reserve strips controlling access to streets, except where the control of such strips is definitely placed with the City under conditions approved by the Planning Commission.

Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.

The street names shall require the approval of the Planning Commission. Streets that obviously are in alignment with streets already existing and named shall be given the name of the existing street.

1. Right-of-Way Widths The right-of-way width shall be the distance across a street from property line to property line. The minimum street right-of-way width shall be as follows:

Arterials	100 feet
Collector Streets	60 feet
Local Commercial Streets	60 feet
Local Residential Streets	50 feet
Alleys	20 feet
Cul-de-sacs (residential)	100 feet diameter

Cul-de-sacs or courts designed to have one end closed should be no more than six hundred (600) feet long without special permission of the Planning Commission and Fire Marshall or Chief. Such streets will be provided at the closed end with a turn-around of not less than eighty (80) feet roadway diameter (outside to outside of roadway surface).

Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street right-of-way width requirements. Where any part of the subdivision is on both sides of the existing street, the entire required right-of-way shall be dedicated. Where the subdivision is located on only one (1) side of an existing street and the land across the street from the proposed subdivision has been subdivided or developed, the subdivider is required to provide enough additional right-of-way on his side of the roadway to bring the total right-of-way to the required width.

Where the subdivision is located on only one (1) side of an existing street and the land across the street from the proposed subdivision has not been subdivided or developed, the subdivider is required to provide enough additional right-of-way on his side of the street to bring the total right-of-way to a width of not less than fifty (50) feet.

2. Street Grades The minimum grade for all streets shall be 0.5% unless the developer offers a suitable design for draining the street of surface storm water.
3. Intersections The center line of no more than two (2) streets shall intersect at any point. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than sixty (60) degrees.

Curb radii at street intersections shall not be less than twenty (20) feet; unless trees or utility poles require less; and where the angle of a street intersection is less than seventy-five (75) degrees, the Planning Commission may require a greater curb radius. When necessary to permit the construction of a curb having a desirable radius without curtailing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such construction.

Proposed new intersections along one side of an existing street shall, when practical, align with any existing intersections on the other side of such street. Street jogs with centerline offsets of less than 150 feet shall not be allowed unless special circumstances warrant a variance as specifically approved by the Planning Commission.

Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create any traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

4. Horizontal Curves Curvilinear streets are recommended for residential and collector streets in order to discourage excessive vehicular speeds and to provide attractive vistas. Whenever a street changes direction or connecting street lines deflect from each other by more than ten (10) degrees, there shall be a horizontal curve. To insure adequate distance, the minimum center line radii for horizontal curves shall be as follows:

Arterial Streets	300 feet
Collector Streets	200 feet
Local Service Streets	100 feet

Between reverse curves there shall be a tangent having a length of not less than one hundred (100) feet.

- B. Alleys Alleys may be required at the rear of all lots to be used for business purposes, but shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the Commission of the need for alleys.

The width of an alley shall be not less than twenty (20) feet.

Where alleys are provided:

1. Intersections and sharp changes in alignment shall be avoided.
2. Dead-ends shall be avoided where possible.

- C. Easements Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

Where a subdivision is traversed by a water course, drainageway, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets may be required in connection therewith. No building or structure may be erected over or in an easement.

- D. Blocks The lengths, widths, and shapes of blocks shall be determined with due regard for the following.

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
2. Zoning requirements as to lot sizes and dimensions.
3. Needs for convenient access, circulation, control, and safety of street traffic.

4. Limitations and opportunities of topography.

Blocks of less than three hundred (300) feet in length or more than one thousand, two hundred (1,200) feet in length are discouraged except as the terrain itself makes blocks of other lengths desirable. When a block exceeds six hundred (600) feet in length, the Planning Commission may require a dedicated easement not less than fifteen (15) feet in width and a paved crosswalk not less than four (4) feet in width to provide pedestrian access across the block.

Blocks used for residential purposes should be of sufficient width to allow for two tiers of lots of appropriate depth. Blocks intended for business and industrial use should be of a width suitable for the intended use, with due allowance for off-street parking and loading facilities.

- E. Lots The shape of residential lots shall not be required to conform to any stated pattern. The Planning Commission shall judge lot shape on the type of development and on the use to which the lots will be put.

Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation at both streets.

Lot dimensions:

1. Lots within the city limits shall conform to the requirements of the Zoning Ordinance.
2. Lots not served by sanitary sewer and/or public water supply shall be of sufficient size to conform to the regulations and specifications of the Arkansas Health Department.
3. The minimum building setback line shall be not less than twenty-five (25) feet from any right-of-way.

Side lot lines should be approximately at right angles or radial to street lines.

Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet shall be provided along the portion of the lots abutting such a traffic artery or other use where screening is required. There shall be no right of access across a planting screen easement. At the discretion of the Planning Commission, the developer may substitute for an easement and a planting screen a permanent ornamental fence or wall of a height and architectural

design which will appropriately screen and be harmonious with residential or other neighborhood elements; but there shall still be a restriction upon the right of access, and such restriction shall be clearly designated on the plat and Bill of Assurance.

In residential districts which abut railroad rights-of-way, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited." Additionally, rear yard setbacks shall not include this area.

The size of properties reserved or laid out for commercial or industrial uses should be adequate to provide for off-street parking facilities and services required by the type of use and development contemplated. When developed within the city limits, they shall conform to the Zoning Ordinance.

CHAPTER 15.20

REQUIRED IMPROVEMENTS

15.20.01 General Provisions Every subdivider shall be required to install streets, utilities, and public improvements in accordance with the following standards and specifications. All projects shall be constructed according to the approved plans and specifications of a Registered Professional Engineer. When the improvements required by these rules and regulations have been completed and installed, the Registered Professional Engineer shall submit a letter to the Mayor, City Engineer, and Building Inspector certifying improvements and installations have been made in accordance with approved construction plans, specifications, drawings, and the standards established by the City, and are functioning properly. Additional inspections shall be made in accordance with other applicable ordinances.

The Building Inspector or City Engineer shall then inspect those facilities, improvements and installations for conformance with plans and specifications. If such final inspection reveals that there are any defects or deficiencies in such improvements as installed or that the improvements differ from the final engineering plans and specifications, the Building Inspector or City Engineer shall notify the subdivision engineer and contractor in writing of such defects, deficiencies or deviations. The subdivider shall, at his expense, correct such defects or deviations within six (6) months of the date of notification. When such defects, deficiencies or deviations have been corrected, the subdivider shall notify the Mayor in writing that the improvements are again ready for final inspection.

A Maintenance Bond shall be furnished by the Contractors to cover all construction and improvements under the jurisdiction of review and approval of the City of Ozark. All other

public utilities installed in a development shall be subject to the administrative review and bonding procedures as set out by the respective public utilities and shall not be subject to the provisions of this section of these regulations.

Contractors shall furnish a Maintenance Bond to the City covering any defects in materials and workmanship for the required improvements installed by that Contractor in the amount of fifty (50) percent of the total cost of those improvements. The bond(s) shall be in full force and effect for not less than one year from the date of the letter from the Mayor certifying that all improvements have been completed and approved, and further stating that any and all defects in materials and workmanship shall be corrected by the Contractor by the end of the bond period. Work performed under the terms of the Maintenance Bond shall be approved by the Mayor.

15.20.02 Improvements Every subdivider shall be required to install, at the developer's expense, or to have installed by the appropriate public utility, the following improvements.

- A. Streets – Grading All streets shall be cleared and graded as determined by the city's street specifications or otherwise as approved by the City Engineer.
- B. Streets – Finished Grades Finished grades of all streets shall be in accordance with the city's street specifications or otherwise as approved by the City Engineer.
- C. Streets – Paving Street paving widths shall be in conformance with standards set forth in the Master Street Plan.
- D. Streets – Curbs and Gutters Curbs and gutters, where required, shall be installed according to the city's specifications. The Master Street Plan shall determine when curbs and gutters are required.
- E. Sidewalks – General Sidewalks shall be installed as required by the Master Street Plan.
- F. Sidewalks – Widths Where required, shall be a minimum of five feet wide and shall be installed within the dedicated right-of-way a minimum of five feet from the curb line, except where otherwise specified in this section and except where the land is topographically unsuited for the construction of sidewalks. The Planning Commission may, at its option, require five foot sidewalks in conjunction with commercial subdivision approvals or in other places of public assembly, or anticipated heavy pedestrian traffic volumes.
- G. Sidewalks – Accessibility Sidewalk ramps shall be constructed to permit wheelchair access at street intersections. The ramp specifications shall meet or exceed the most current ADA standards.
- H. Storm Drainage All subdivisions shall be provided with a storm drain system that is designed and constructed to accommodate stormwater that originates in or traverses the subdivisions.

- I. Storm Drainage within Street Right-of-way Within any street right-of-way, an underground drainage system shall be required with inlets as necessary. Concrete valley gutters shall be used at all surface cross drains where surface flow is less than three (3) cubic feet per second. Underground drainpipes are required fall all surface area drains where flow is greater than three (3) cubic feet per second. The design of all concrete valleys is subject to review and approval at the Building Inspector.
- J. Monuments Concrete monuments four (4) inches in diameter (or four inches square) and 30 inches long with one-half (1/2) inch metal reinforcing rod the length of the monument shall be placed with the top flush to the ground at all points of intersection of the boundary of the subdivision and at diagonal corners of all intersections streets. The location of all monuments shall be shown on the final plat.
- K. Lot Corners All lot corners shall be marked with metal pins not less than 3/8" in diameter and 16" long and driven so as to be flush with the finished grade.
- L. Monument Standards All monuments shall be installed and certified as such by a professional surveyor after all improvements have been completed and accepted by the City's engineer. All monuments shall comply with the Arkansas Minimum Standards for Property Boundary Surveys and Plats.
- M. Fire Hydrants Fire hydrants shall be placed in accordance with the Arkansas Fire Prevention Code.
- N. Street Name Signs Street name signs shall be placed on diagonally opposite corners of each street intersection in conformance with standards adopted by the city.
- O. Street Lights and Standards In subdivisions improved with underground wiring, the Developer shall install ornamental light standards with street lights for the subdivision (in contrast to wood poles normally provided by the power company). The staff shall approve location of street lights as indicated on the preliminary plat.
- P. Water Supply – Public Where a public water supply is within a reasonable distance, the subdivider shall install or have installed a system of water mains and connect to such supply. A connection to each lot shall be installed prior to the paving of the street.
- Q. Water Supply – Private Where a public water supply is not available, the subdivider shall furnish the Building Inspector satisfactory evidence that a sufficient quantity of water of a quality approved by the State Board of Health is available to each individual lot.

- R. Sanitary Sewage Disposal – Public Where a public sanitary sewer is within a reasonable distance of any point of a subdivision, the subdivider shall connect with such sewer and provide a connection to each lot. Such sanitary sewage system shall be installed prior to the installation of the street pavement.
- S. Sanitary Sewage Disposal – Private Where a public sanitary sewer is not accessible, an alternate method of sewage disposal for each lot, or a community sewage disposal system may be used when in compliance with the standards of the Arkansas State Health Department and these regulations.
- T. Sanitary Sewage Disposal – Planned Where public sanitary sewer mains are to be available in a reasonable time, the Commission may require the sewer collection system to be installed and capped and an alternate temporary method of sewage disposal designed for each lot.

15.20.03 Boundary Street Improvements

- A. Purpose and Applicability In order to improve the capacity of existing or planned traffic facilities, the City of Ozark will require boundary street improvements when proposed subdivisions will abut existing streets.
- B. Administration The Planning Commission shall be responsible for requiring improvements in the public right-of-way consistent with these regulations
- C. Payments The city Clerk's office shall be responsible for receiving, recording, depositing, and reporting in-lieu cash contributions as determined by the Planning Commission. The city Clerk's office shall maintain a Boundary Street Improvement account and shall furnish a yearly report summarizing the account to the Mayor and City Council. This report shall include both the principal and the interest earned for the accounting period.
- D. Developments Included The following property classifications shall comply with this article.
 - 1. Subdivisions
 - 2. Large scale developments
 - 3. Commercial Developments not otherwise covered
- E. Streets Included and Improvements Required Improvements are required for the streets types listed below as indicated.
 - 1. State Highways: Right-of-Way Dedication, if requested in writing by the Arkansas Highway and Transportation Department, for the One-Half Street Section abutting the proposed subdivision or development.

2. Arterial Streets designated on the city's Master Street Plan - Right-of-Way Dedication for the One-Half Street Section abutting the proposed subdivision or development.
 3. Other Collector Streets included in the Master Street Plan: Boundary Street Improvements on the One-Half Street Section abutting the proposed subdivision or development.
- F. Other Ordinances Not Affected Nothing herein shall be construed to relieve any developer or property owner from requirements of other ordinances, including but not limited to the Zoning Ordinance, Flood Plain Management Ordinance or Storm Water Management Ordinances, including revisions thereto.
- G. Plat Approval No plat, site plan or building permit shall be approved unless the developer has complied with the provisions of these regulations.
- H. In-lieu requirements In-Lieu Contributions may be allowed when the City's engineer determines that In-Lieu Contributions would be in the best interest of the city.
- I. In-lieu Contributions Instead of constructing Boundary Street Improvements, the developer shall contribute to the city a cash payment equal to one hundred (100) percent of the City's engineer's estimate of the cost of construction of the Boundary Street Improvements. In-lieu Contributions shall be reimbursed to the developer with interest, as determined by the city Clerk's office, as accrued while the funds were in the city's possession, if said funds are not expended for the specific required improvements within five (5) years from the dated of permit approval. The amount of the In-Lieu Contribution, plus accrued interest, shall be allocated by the City Council as a part of the total allocation for the construction project that includes the street segment abutting the development.
- J. Refunds The City Council must approve all refunds and may, at its discretion, refund proceeds before the five-year deadline.

INDEX

	<u>Section</u>	<u>Page</u>
A		
ADOPTION OF STATE LAWS	8.04	100
ADVERTISING AND TOURIST PROMOTION COMMISSION	2.28	15
ANIMALS AND FOWL	TITLE 6	58
ANIMALS, HOOVED	6.08	65
ANNEXING AND REZONING PROPERTY	14.20	214
B		
BOARD OF ZONING ADJUSTMENT	14.04.06	193
BUILDING CODE	11.20	161
BUILDING PERMIT	11.04	153
BUILDINGS AND CONSTRUCTION	TITLE 11	153
BUSINESS LICENSES AND REGULATIONS	TITLE 4	30
C		
CABLE TELEVISION FRANCHISE	4.16	36
CITY CLASSIFICATION	2.04	7
CITY COUNCIL	2.08	7
CLASSIFICATION, ADMINISTRATION AND PERSONNEL	TITLE 2	7
CLERK/TREASURER	2.12	8
CODE OF ETHICS	2.36	23
CONTRACT WITH HIGHWAY DEPARTMENT FOR DAMAGE REPORT	8.20	103
CROSS CONNECTION PROGRAM	10.16	133
CURFEW	7.08	67
CUSTOMER SERVICE POLICY AND WATER RATES	10.08	123
D		
DISTRICT COURT	2.20	12
DOGS	6.04	58

E

ELECTRIC FRANCHISE	4.04	30
--------------------	------	----

F

FAIR HOUSING	11.16	159
FIRE DEPARTMENT	2.18	11.1
FIRE PREVENTION CODE	11.12	159
FIREWORKS	7.36	77
FISCAL AFFAIRS	TITLE 3	28
FLOOD DAMAGE PREVENTION PROGRAM	14.12	206

G

GARAGE SALES	4.24	43
GAS FRANCHISE	4.08	31
GENERAL PROVISIONS	TITLE 1	1

H

HEALTH AND SANITATION	TITLE 5	45
HEALTH CARE PUBLIC FACILITIES BOARD	5.12	56
HUDSPETH LAKE/OZARK CITY LAKE- RULES AND REGULATIONS	12.08	167

L

LEASE, ACCEPTANCE AND DEDICATION OF STREETS	8.28	105
LICENSING OF MOTORBIKES AND MOTORCYCLES	8.08	101
LOITERING	7.12	69

M

MAINTENANCE OF REAL PROPERTY	5.04	45
MASTER STREET PLAN	9.04	109
MINING AND DRILLING OIL OR GAS WELLS	14.16	206

N

NOISE FROM VEHICLES	8.12	102
NUMBERING AND NAMING OF STREETS	11.24	161

O

OCCUPATION TAX	4.20	41
OPEN BURNING	7.24	73
OUTDOOR SHIELDED LIGHTING	9.08	110
OUTSIDE FIRE SERVICE	7.20	72
OZARK-FRANKLIN COUNTY AIRPORT HAZARD ZONING	14.08	200
OZARK TOURIST FACILITIES BOARD	2.32	21

P

PARKING	8.24	104
PARKS AND RECREATION	TITLE 12	165
PARKS AND RECREATION COMMISSION	12.04	165
PERSONNEL POLICIES	2.40	26
PLANNING	TITLE 13	168
PLANNING COMMISSION	13.04	168
PLUMBING CODE	11.08	156
POLICE DEPARTMENT	2.16	9
PORT AUTHORITY	2.24	14
PRIVATE CLUBS	7.16	70
PUBLIC PEACE, SAFETY AND MORALS	TITLE 7	66
PURCHASES	3.04	28

R

REAL ESTATE AND PERSONAL PROPERTY TAXES	3.08	29
REFERENDUM PETITIONS	1.36	6

S

SEXUALLY ORIENTED BUSINESSES	7.40	78
SEWER AND WATER EASEMENTS	10.12	132
SEWER REGULATIONS	10.04	112
SIGNS	14.04.07	195
SOLID WASTE COLLECTION	5.08	53
SOLICITORS, ITINERANT PEDDLERS AND HAWKERS	7.28	74
STATE CRIMINAL STATUTES & PENALTIES	7.04	66
STREET CUTS	9.12	110
STREETS AND SIDEWALKS	TITLE 9	109
SUBDIVISION REGULATIONS	TITLE 15	217

T

TELEPHONE FRANCHISE	4.12	34
TRAIN SPEED	8.16	102
TRAPPING	7.32	76

U

UTILITIES	TITLE 10	112
-----------	----------	-----

V

VACATING STREETS AND ALLEYS	8.32	107
VEHICLES AND TRAFFIC	TITLE 8	100
VICIOUS ANIMALS	6.12	65.1

Z

ZONING	TITLE 14	170
ZONING DISTRICTS	14.04.04	175
ZONING ORDINANCE	14.04	170

Ord. No. 2000-5	From R-1 to C-2	310 E. Commercial Street
Ord. No. 2001-6	From R-1 to C-2	2200 North 18 th Street
Ord. No. 2001-12	From R-1 to C-2	208 South 17 th Street
Ord. No. 2002-10	From R-1 to C-2	1501 North 18 th Street
Ord. No. 2002-15	From R-1 to C-2	1312 North 3 rd Street
Ord. No. 2003-16	From R-1 to C-2	104 South 7 th Street
Ord. No. 2005-8	From R-1 to C-2	2400 North 18 th Street
Ord. No. 2005-11	From R-1 to C-2	913 North 18 th Street
Ord. No. 2007-5	From R-1 to C-2	500 North 29 th Street
Ord. No. 2007-6	From R-1 to C-2	South of Pleasant Homes subdivision
Ord. No. 2009-4	From R-1 to A-1	SW ¼ of Se. 33, Twp 10 N, Range 27 West
Ord. No. 2009-5	From R-1 to C-3	1113 North 3 rd Street.
Ord. No. 2009-6	From R-4 to C-2	1205 W. Commercial Street
Ord. No. 2009-8	From R-1 to R-2	806 W. Main St.
Ord. No. 2009-9	From C-3 to C-2	1113 North 3 rd Street
Ord. No. 2009-19	From R-1 to R-2	212 Alston Street
Ord. No. 2009-20	From R-1 to C-3	2713 W. Commercial Street