

SECTION 29 RULES OF INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundary of a district on the Official Zoning Map(s), the following rules shall apply:

1. Boundaries indicated as following the center lines of streets, alleys, railroads, streams, rivers or lakes shall be construed as following the center lines;
2. Boundaries indicated as following plotted lot lines shall be construed as following the lot lines;
3. Boundaries indicated as following city limit lines shall be construed as following the city limit lines;
4. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map(s); and
5. Where a line cannot be determined by the rules above the Planning Commission shall decide the location of the line.

SECTION 30 NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF STRUCTURES AND PREMISES

Within the districts established by this ordinance or amendments that may later be adopted, if there exist

- (a) Lots
- (b) Structures,
- (c) Uses of Land and Structures.

Which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, restricted under the terms of this ordinance or future amendment, it is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of the ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building premises or additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried out diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantial begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

1. Non-Conforming Lots of Record. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot or record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions are requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustments.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this ordinance.

2. Non-Conforming Uses of Land (or Land with Minor Structures Only). Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1000, the use may be continued so long as it remains otherwise lawful, provided:

- A) No such Non-conforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- B) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance;
- C) If any such non-conforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations in which such land is located;

- D) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

3. Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on areas, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

- A) No such non-conforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B) Single-family nonconforming structures in nonresidential zones may be allowed to expand only by Planning Commission action.

SECTION 31 APPLICATION OF DISTRICT REGULATIONS

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
2. No building or structure hereafter erected or altered shall exceed the height, bulk, area, percent coverage, density, open space and yard requirements established in this ordinance. No land shall be used other than in accordance with the requirements of this ordinance. No existing yard or lot shall be reduced in dimension or area below the minimum requirements of this ordinance. Yards and lots created after the passage of this ordinance shall meet the minimum requirements of this ordinance.
3. No part of a yard, lot, other open space, parking or loading area required for one building, structure or use shall be counted for another building, structure or use.
4. All land area annexed after the effective date of this ordinance shall be zoned upon annexation as A-1 District unless the annexing ordinance of the City zones the property otherwise.
5. Any lands subject to the jurisdiction of this ordinance but not specifically included shall be considered A-1 District until rezoned otherwise.
6. Any zoning district line which splits a lot of record existing at the time of passage of this ordinance may be extended by the administrative officer to the whole lot line, provided the lot is one acre or less.

7. Uses which were inadvertently omitted from the Schedule of Uses and new uses created after passage of this ordinance may be added to the Schedule of Uses by resolution of the Planning Commission.

SECTION 32 GENERAL DISTRICT REGULATIONS

1. Visibility at Intersections

At any intersection within the City of Rogers nothing will be erected, planted, placed or allowed to grow which impedes vision at the intersection between the height of 2 ½ feet and 10 feet above the highest elevation of the road surface cross section of the intersection streets. This restriction shall apply in a triangle shaped area running 25 feet in each direction from the intersection curb lines or roadway surface lines and a line connecting those two points. This restriction may be varied by the Board of Adjustments in the C-1 Central Business District.

2. Multiple Structures On One Lot

More than one principal permitted structure shall be allowed on one lot in any zoning district provided each structure shall meet all zoning requirements as if it were a separate lot.

3. Access To Public Streets

Every structure hereafter erected or moved shall be located on a lot which has frontage on a public street.

4. Accessory Uses

Accessory uses are allowed on any lot in any district provided that no accessory use shall be allowed in any required yard area or setback. Accessory uses shall not be established prior to the principal use without Planning Commission approval.

5. Height Exceptions

Certain building accessories and other structures are exempt from the height regulations of this ordinance. Building accessories would include steeples, spire, belfries, cupolas, antennas, heating and cooling systems, ventilators and chimneys. The structures would include antennas, watertanks, chimneys and smokestacks. If the height of any building accessory or structure at its proposed location on the property exceeds the distance to the nearest property line, that building or structure shall be reviewed and approved or denied by the Planning Commission. No freestanding cross or other type of religious symbol may be taller than seventy (70) feet at the highest point from the ground.

6. Large Scale Development

Development of a residential nature is exempt from the Large Scale Development process in the R-SF, R-AF, and N-R District. Any development in the A-1 District over 5000 square feet is required to go through the Large Scale Development process. Any development with 5 or more dwellings units in the R-DP, R-MF, R-MHC, and R-RVP District is required to go through the Large Scale Development process. Any development in the R-O, O, C-1, C-2, C-3, C-4, W-O, I-1, and I-2 Districts is required to go through the Large Scale Development process.