

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 419, NON-CONFORMING USES; AMENDING SECTION 431.7 BY CLARIFYING THE LOCATION OF OFF-STREET PARKING SPACES, NOTICE PROVISIONS AND PENALTIES FOR NON-COMPLIANCE; AMENDING SECTION 441, THE BOARD OF ADJUSTMENT; AMENDING SECTION 450, DEFINITIONS, OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 419 of Chapter 22 of the Code of the City of Norman shall be amended to read as follows:

Sec. 419 – NON-CONFORMING USES AND STRUCTURES

1. Continuation. Any use or structure existing at the time of enactment or subsequent amendment of this Ordinance, but not in conformity with its provisions, may be continued with the following limitations. Any use or building which does not conform to the provisions of this Ordinance may not be:

- (a) Changed to another non-conforming use.
- (b) Re-established after discontinuance for two years.
- (c) Extended except in conformity to this Ordinance.

Provided, however, that all buildings and uses existing at the time of passage of this Ordinance which do not comply with the required off-street parking requirement, as specified in Article XII, Sec 431.5 – 431.9, shall not be defined as non-conforming uses because of a lack of said off-street parking facilities under the terms of this Ordinance.

2. Termination/Rebuilding. A non-conforming use terminates when the structure housing the use is destroyed by the intentional act of the owner or the owner's agent, except:

- (a) If a structure housing a non-conforming use is damaged or destroyed other than by the intentional act of the owner or the owner's agent, a person may restore or reconstruct the structure.
- (b) The structure can only be restored or reconstructed so as to have the same approximate height and floor area that it had immediately prior to the damage or destruction.
- (c) The property owner has the burden of proof to establish the height and floor area of the structure immediately prior to the damage or destruction.
- (d) A restoration or reconstruction in violation of this subsection immediately terminates the right to operate the non-conforming use.

(e) A person may renovate, remodel or repair a non-conforming structure if the work does not increase the degree of non-conformity.

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§ 2. That Section 431.7 of Chapter 22 of the Code of the City of Norman shall be amended to read as follows:

1. Location of Off-Street Parking Spaces.

(a) ~~Front, Side, and Rear Yards.~~ In a residential district, no part of a lot or tract ~~front yard or of a side yard abutting a public street, an interior side yard, or a rear yard~~ shall be used as a parking space for a motor vehicle, boat, trailer, or other vehicle of equivalent or larger size, except upon an approved pavement surface which meets the requirements of this section. (O-0405-30)

(b) In a commercial district, no part of a lot or tract shall be used as a parking space for a motor vehicle, boat, trailer, or other vehicle of equivalent or larger size, except upon an approved pavement surface which meets the requirements of this section. Vehicle and equipment storage yards that are completely enclosed by an opaque fence are excepted from this requirement.

(c) ~~(4)~~ Citations for illegal parking. Issuance. Whenever any vehicle without a driver is found parked or stopped in violation of the restriction imposed by this section, the inspector finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a citation in writing on a form provided by the City for the owner of the vehicle to answer the charge against him/her within ten (10) days at the time and place specified in the citation; or, if the registration cannot be obtained, mail a notice letter to the property owner, tenant, or occupant of such location that such vehicle appears to be in violation of this section and that he has ten (10) days from the date of the notification and the posting of the property to relocate the vehicle onto a legal parking surface. If the vehicle is not moved to a legal parking surface within the specified time period, the inspector may issue a citation to the property owner. The inspector shall deliver copies of the citation to the Traffic Division of the Municipal Court.

~~[a] — Issuance. Whenever any vehicle without a driver is found parked or stopped in violation of the restriction imposed by this section, the inspector finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a citation in writing on a form provided by the City for the owner of the vehicle to answer the charge against him/her within ten (10) days at the time and place specified in the citation. The inspector shall deliver copies of the citation to the Traffic Division of the Municipal Court.~~

(1) ~~{b}~~ Administrative payment of citation. Any person may elect to pay a fine to the Court Clerk in lieu of appearing before the Municipal Court for formal arraignment.

[a] ~~{1}~~ Persons electing to so administratively pay their fines, shall first file with the Court Clerk an appearance form, a guilty plea form, and a court appearance waiver form.

[b] ~~{2}~~ Persons electing to so administratively pay their fines shall pay twenty dollars (\$20.00) per each violation.

(2) ~~{e}~~ Formal arraignment. Any person electing to appear before the Municipal Court for formal arraignment, shall be subject, upon conviction, to a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00) per each violation.

(3) ~~{d}~~ Failure to comply with citation. If the owner of the vehicle does not respond in obedience to a citation affixed to the vehicle within a period of ten (10) days, the citation shall be deemed to be delinquent and a warrant shall be issued. In the event that the citation is thereafter prosecuted in the Court, the citation shall substantially conform to the requirements of Section 14-307 of this Code.

(d) ~~{2}~~ Presumption in reference to illegal parking.

(1) ~~{a}~~ In any prosecution charging a violation of this section, proof that the vehicle described in the citation was parked in violation of this section, together with proof that the defendant named in the citation was at the time the citation was issued the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(2) ~~{b}~~ The provisions of Subsection (2)(a) shall apply only when the procedure prescribed in this section has been followed.

(e) ~~{b}~~ Relation to Premises. Such off-street parking space may occupy part of any required yard, but may not occupy any required livability space. For any new commercial or industrial use, required off-street parking, which because of the size or location of the parcel cannot be provided on the same zoning lot with the principal use, may be provided on other property not more than 200 feet distant from the building site subject to guarantees acceptable to the Director of Planning and Community Development, but the applicant may appeal such guarantees to the City Manager. Such parking space shall be deemed to be required parking associated with permitted principal use and shall not thereafter be reduced or encroached upon in any manner. For any new residential use off-street parking shall be provided on the same tract, adjacent to said tract, or essentially in line with

same tract across the alley or street right-of-way therefrom but not more than 200 feet distant from the building site.

(f) ~~(e)~~ Parking in the Central Core Area.

- (1) ~~{1}~~ The Central Core Area, as defined by City council per the attached map exhibit, is generally defined as that area south of Robinson Street, west of 12th Avenue (East), north of Imhoff Road, and east of Berry Road.
- (2) ~~{2}~~ Within the Central Core Area, residential uses shall mean single-family dwellings, duplexes, triplexes, apartments, rooming and boarding houses, and fraternities and sororities, but not any commercial, industrial, or institutional use.
- (3) ~~{3}~~ All new or expanded open parking areas for any residential use shall first be installed adjacent to any existing alley. Before new parking can be added in the front or side yard of the structure, parking must be installed in the rear yard to the maximum extent possible. New or expanded driveways within the front yard shall only be allowed when they are used to provide access to new parking areas in the rear yard. New or expanded parking areas within the front yard will only be approved after a review and determination by the Planning Department that no other reasonable option exists. Such determination may be appealed to the Board of Adjustment.
- (4) ~~{4}~~ For any residential use, the total amount of impervious area, including, but not limited to, parking areas, patios, swimming pools, tennis courts, sidewalks and other similar permanent improvements, together with the ground floor surface area of all principal and accessory structures, may not exceed 65% of the total lot area. This percentage shall not apply when existing pavement is repaired or replaced (but not expanded), although a permit for such work shall still be obtained.
- (5) ~~{5}~~ When parking areas for residential uses are proposed on lots that are adjacent to or across the street from the principal residential use, the above limitations shall apply. (O-0405-30)

(g) ~~(d)~~ Vision Clearance at Intersections. Off-street parking shall observe the provisions of Section 431.1 (h) of this Code. Also, when a driveway intersects a public right-of-way, an unobstructed cross-visibility at a level between two (2) and eight (8) feet shall be allowed in the triangular areas on both sides of the driveway; two sides of each triangle being ten (10) feet in length from the point of intersection of the driveway and public right-of-way and the third side being a line connecting the ends of the other two sides. No parking shall be permitted in these triangular areas. (O-7980-2; O-0405-30)

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§ 3. That Section 441 of Chapter 22 of the Code of the City of Norman shall be amended to read as follows:

Sec. 441 – THE BOARD OF ADJUSTMENT

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7. Special Exceptions Defined and Enumerated. A special exception is defined as follows: “A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as special exceptions if specific provisions for such special exceptions is made hereafter.”

The Board of Adjustment is hereby empowered and authorized to grant the following specific exceptions, to wit:

* * *

~~(b)~~ — To permit the reconstruction of a non conforming building that has been destroyed, or partially destroyed by fire or act of God, where the board shall find some compelling public necessity requiring a continuance of the non conforming use, but in no case shall such a permit be issued if its primary function is to continue a monopoly;

~~(e)~~(b) To interpret the provisions of the ordinance where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this ordinance;

~~(d)~~(c) To grant exceptions to the off-street parking requirements as set forth in Article XII, Section 431.5-431.7, when it is determined that the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, that the proposed use of land is similar in nature to adjacent land uses, and that the proposed use will not create undue traffic congestion in the adjacent streets;

~~(e)~~(d) To permit new structures and substantial improvements to be erected in the designated floodway of the Flood Hazard District on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level when (1) good and sufficient cause is shown, (2) it is determined that the exception is the minimum necessary (considering the flood hazard) to afford relief, and (3) that the granting of the exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing conditions;

~~(f)~~(e) To allow the continued use of a legal non-conforming gravel driveway and/or parking area within the Central Core Area (as defined) when it can be determined that both of the following conditions are met (1) the parking area has existed since July 1966, and (2) the owner has agreed to install permanent or semi-permanent borders to aid in visually verifying the actual extent of usage;

(f) To permit a mobile home to serve as a temporary second dwelling to relieve a medical hardship. The application must include a doctor’s statement indicating that the patient is in need of the care of his or her family. The mobile home must meet all City of Norman Building Code requirements and State of Oklahoma requirements for septic systems. The Exception can be approved for up to 3 years on any lot that is generally five acres or greater in the A-2 zoning district. The Exception can be renewed every 3 years by filing a new application. Once the need for the mobile home no longer exists, the mobile home must be removed.

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10. Variance Defined. A variance is defined as follows: “A variance is a relaxation of the terms of the zoning ordinance, when such variance will not be contrary to the public interest, and where, owing to the conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship, as hereinafter defined. As in this ordinance, a variance is authorized only for height, area, and the size of yards and open spaces except that in the A-2, Rural Agricultural District, the frontage requirement may also be varied when justified for any development standard contained in Chapter 22 of the Code except where a Special Exception is defined and enumerated in Section 441.7 of Chapter 22.”

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§ 4. That Section 450 of Chapter 22 of the Code of the City of Norman shall be amended to read as follows:

Sec. 450 – DEFINITIONS

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(12) BUILDING. Any structure. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure. A man-made structure with a roof and walls standing more or less permanently in one place.

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(49.5) GARAGE. A permanently roofed structure completely enclosed that is used primarily for automobile shelter and storage.

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(134) STRUCTURE. ~~Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards and poster panels.~~ Any object constructed in or on the ground, except an inground swimming pool. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not included paved areas or vegetative landscaping materials.

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§ 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day
of _____, 2014.

NOT ADOPTED this _____ day
of _____, 2014.

Cindy Rosenthal, Mayor

Cindy Rosenthal, Mayor

ATTEST:

Brenda Hall, City Clerk