

ORDINANCE 2023-021

AN ORDINANCE AMENDING TITLE XV, LAND USAGE, CHAPTER 157, ZONING, UPDATING SECTION 157.004, DEFINITIONS.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FORT GIBSON, OKLAHOMA, THE FOLLOWING AMENDMENT TO THE ABOVE STATED ORDINANCE TITLE AND SECTION.

§ 157.004 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ALLEYS. Public ways which are used primarily to service the back or side of a property which also abuts on a street; a minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

AUTOMOBILE OR TRAILER SALES AREA. An open area, other than a street, used for the display, sale, or rental of new or used automobiles or trailers which must be in condition to be driven on or off the areas and where no repair work is done except minor incidental repair to automobiles or trailers to be displayed, sold, or rented on the premises. This area shall not be used for the storage of wrecked automobiles, trucks, or trailers.

BED AND BREAKFAST. A dwelling or area containing one or more structures occupied by the property owner where, for compensation, lodging and meals are provided for up to a maximum of eight guestrooms; and the owner thereof intends that the same guest occupy the bed and breakfast facility for less than 15 days.

BUILDABLE AREA. The portion of a lot remaining after required yards have

been provided. *BUILDING AREA.* The portion of a lot covered by buildings.

BUILDING HEIGHT. The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof or the highest gable of a pitch or hip roof.

BUILDING, MAIN. A building in which is conducted the principal use of the lot on which it is situated.

BUSINESS. Includes a neighborhood retail business, commercial, and manufacturing uses, and districts as herein defined.

CHILDCARE CENTER. Any place or institution which receives eight or more children under the age of 16 years and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, then received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated, or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children while their parents or legal guardians are attending services or meetings or classes, or are engaged in church activities.

CLINIC. See *MEDICAL FACILITIES.*

CLINIC, ANIMAL. Structure or area owned and operated by a doctor of veterinary medicine for the purpose of treating and caring for animals.

COMMERCIAL PARKING LOT. Any tract of land which is used for the storage of motor vehicles and is not accessory to any other use on the same or any other zoning lot, and contains space rented to the general public by the hour, day, week, month, or year. However, a *COMMERCIAL PARKING LOT* shall not include any establishment used for automobile repairs, excepting minor repairs which are solely incidental to the storage of motor vehicles, nor any establishment used exclusively for the storage of commercial or public utility motor vehicles or for dead storage of motor vehicles.

COURT. An open, unoccupied space, bounded on more than two sides by the walls of the building.

(1) *INNER COURT.* A court entirely surrounded by the exterior walls of a building.

(2) *OUTER COURT.* A court having one side open to a street, alley, yard, or permanent open space.

COVERAGE. The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and eat or drink the food, refreshments, or beverages on the premises.

DWELLING, MANUFACTURED OR MOBILE HOME.

(1) A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet (2,438 body mm) or more in width or 40 body feet (12,192 body mm) or more in length or, when erected on site, is 320 or more square feet (30 m²), and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except, that such term shall include any structure which meets all the requirements of this division (1) except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary (HUD) and complies with the standards established under this zoning code.

(2) For *MOBILE HOMES* built prior to June 15, 1976, a label certifying compliance with the standards for mobile homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

(3) For the purpose of this zoning code, a *MOBILE HOME* shall be considered a *MANUFACTURED HOME*.

DWELLING, MULTIPLE-FAMILY. A residential building designed for ~~or occupied by~~ three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit, other than a mobile or manufactured home, designed for ~~and occupied by~~ one family only, and which shall:

- (1) Have a fixed, permanent foundation;
 - (2) Utilize customary residential exterior finishing materials;
 - (3) Contain a core area of living space at least 20 feet by 20 feet, exclusive of an attached garage;
- and
- (4) Meet all other town codes and ordinances.

DWELLING, TWO-FAMILY. A detached residential building containing two dwelling units, designed for occupancy by not more than two families living independently of each other.

DWELLING UNIT. One room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

FAMILY. One or more persons occupying a single dwelling unit; ~~provided, that unless all members are related by blood or marriage, no such family shall contain over five persons; but further provided, that domestic servants employed on the premises may be housed on the premises without being counted as a~~ *FAMILY* or *FAMILIES*.

FAMILY CHILDCARE HOME. A family home which provides care and protection for seven or fewer children for a part of the 24-hour day. The total number of children in a *FAMILY CHILDCARE HOME* is limited to seven. The number includes:

- (1) Children under five years of age who live in the home and are present in the home while children are in care;
- (2) Foster children 12 years of age and younger who live in the home and are present in the home while children are in care; and
- (3) The children of any substitute or assistant caregiver.

SERVICE STATION.

(1) Buildings and premises where gasoline, oil, grease, batteries, tires, and/or automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:

- (a) Sale and servicing and repair, but not recapping or regrooving;
- (b) Tire servicing and repair, but not recapping or regrooving;
- (c) Replacement of mufflers and tailpipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;

Radiator cleaning and flushing;

Washing and polishing, and sale of automotive washing and polishing materials;

Greasing and lubrication;

Providing and repairing fuel pumps, oil pumps, and lines;

Minor servicing and repair of carburetors;

Emergency wiring repairs;

Adjusting and repairing brakes;

Minor motor adjustments not involving removal of the head or crankcase or racing the motor;

(1) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation; and

(m) Provision of road maps and other informational material to customers; provision of restroom facilities.

(2) Uses permissible at a *SERVICE STATION* do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in *SERVICE STATIONS*. A *SERVICE STATION* is not a repair garage nor a body shop.

GARAGE. A building designed for the storage or repair of motor vehicles.

(1) *PRIVATE GARAGE*. A detached accessory building or portion of a main building used for the parking or storage of the automobiles of the occupants of the premises; provided, that not more than two spaces may be rented to persons not residing on the premises; and provided further, that not more than one commercial vehicle not exceeding two and one-half tons' capacity may be parked or stored therein.

(2) *PUBLIC GARAGE*. A building whose principal use is for the care, service, or repair of motor vehicles or where vehicles are parked or stored for remuneration, hire, or sale.

GENERAL PLAN. General plan or master plan or comprehensive plan for development for the town which has been officially adopted to provide long range development policies for the area subject to urbanization and/or incorporation into the town in the foreseeable future and which includes, among other things, the plan for land use, land division, circulation, streets, and community facilities.

HEIGHT The *HEIGHT* of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher or, if no street grade has been established, to the highest point of the roofs surface, if a flat surface, to the deck line of mansard roofs and to the mean height level between eaves and ridge for hip and gable roofs. In measuring the *HEIGHT* of a building, except for airport zoning purposes, the following structures shall be excluded• chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires and parapet walls not exceeding four feet in *HEIGHT*

HIGH RISE APARTMENTS. Any residential building over 35 feet or two and one-half stories in height.

HOME OCCUPATION. An occupation conducted in a dwelling unit; provided, that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation;

(2) The use of the dwelling unit for the *HOME OCCUPATION* shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 % of the floor area of the dwelling unit shall be used in the conduct of the *HOME OCCUPATION*;

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such *HOME OCCUPATION*, other than one sign not exceeding one square foot in area, nonilluminated, and mounted flat against the wall of the principal building;

(4) No traffic shall be generated by such *HOME OCCUPATION* in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such *HOME OCCUPATION* shall be set off the street and other than in a required front yard; and

(5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

HOSPITAL. See definition of MEDICAL FACILITIES.

HOTEL. is an establishment that provides paid lodging on a short-term basis.

IMPERVIOUS MATERIAL. A material which does not permit the ready passage or penetration or flow of water through or into.

KENNEL. Any lot or premises on which more than three dogs or three cats more than four months of age are kept.

~~*KINDERGARTEN*. A school for children of prepublic school age in which constructive endeavors, object lessons, and helpful games are prominent features of the curriculum.~~

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pick-ups and deliveries, scaled to such delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required *OFF-STREET LOADING SPACE* is not to be included as off-street parking space in computation of required off-street parking space.

LOT A subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development. A *LOT* is a contiguous parcel of land of at least sufficient size to meet the minimum zoning requirements for the zoning district in which it is located. The word *LOT* includes the words "plot" or "parcel". *LOTS* may be created by division or combination of other *LOTS*, parcels, or tracts of land, but in no case shall any residual *LOT* or parcel be created which does not meet the requirements of this zoning code. Such *LOT* shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (1) A single lot of record;

- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; and
- (4) A parcel of land described by metes and bounds.

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 nonintersecting sides abutting on two or more streets.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of "yard" in this section.

LOT MEASUREMENTS.

(1) *DEPTH* "Depth of a lot" shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) *WIDTH* "Width of a lot" shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width, except in the case of lot on the turning circle of cul-de-sac, where the 80% requirement shall not apply.

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.

LOT TYPES.

(1) *CORNER LOT.* A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a *CORNER LOT* if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees.

(2) *INTERIOR LOT.* A lot other than a corner lot with only one frontage on a street.

(3) *REVERSED FRONTAGE LOT* A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area.

(1) THROUGH LOT A lot other than a corner lot with frontage on more than one street. THROUGH LOTS

abutting two streets may be referred to as "double frontage lots."

MEDICAL FACILITIES.

(1) **CONVALESCENT, REST OR NURSING HOME.** A health facility where persons are housed and furnished with meals and continuing care for compensation.

(2) **HOSPITAL.** An institution providing health services primarily for human inpatients and medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are an integral part of the facilities.

(3) **PROFESSIONAL CLINIC.** A facility for the examination and treatment of ill and afflicted human outpatients; provided, however, that patients are not kept overnight except under emergency conditions.

(4) **PUBLIC HEALTH CENTER.** A facility primarily utilized by a health unit for the provision of public health services including related facilities such as laboratories, clinics, and administrative offices operated in connection therewith.

(5) **SANITARIUM.** An institution providing health facilities for inpatient medical treatment or treatment and recuperation using natural therapeutic agents.

MOBILE HOME PARK OR COURT Land or property which is used or intended to be used or rented for occupancy by ten or more mobile homes or moveable sleeping quarters of any kind.

MOTEL. A roadside hotel designed primarily for motorist typically having the rooms arranged in a low building with parking outside.

OPEN SPACE. Area included in any side, rear, or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves, or porches.

OUTDOOR ADVERTISING BUSINESS. Provision of outdoor displays or display space on a lease or rental basis only.

PARKING SPACE, OFF-STREET. An **OFF-STREET PARKING SPACE** shall consist of space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. A parking space shall be a minimum of nine feet in width and 19 feet in length. Refer to §§ 157.205 through 157.209 of this chapter for detailed off-street parking provisions.

PLANNING COMMISSION The Fort Gibson Planning Commission which serves as the Zoning Commission for the town.

SCHOOLS. Such institutions of learning, not operated for profit, which offer and maintain a course or courses of instruction leading to degrees or certificates of graduation recognized by the Board of Education of the state.

SEATS. The seating capacity of a particular building; in the event individual seats are not provided, each 20 inches of benches or similar seating accommodations shall be considered as one seat for the purpose of this chapter.

SHALL and *MAY*. *SHALL* is mandatory; *MAY* is permissive.

SHELTER, FALLOUT. A structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fallout, air raids, storms, or other emergencies.

SIGN Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignias of any government except when displayed in connection with commercial promotions;
- (3) Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features on buildings except letters, trademarks, moving parts, or moving lights; and
- (5) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

SIGN, OFF-SITE. A sign other than an on-site sign.

SIGN, ON-SITE. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. *ON-SITE SIGNS* do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

SIGNS, NUMBER AND SURFACE AREA.

(1) For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element is considered to be a single sign.

(2) The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements bearing advertising matter shall be included in computation of surface area.

SPECIAL EXCEPTION. A use that would not be appropriate generally or without restriction throughout the zoning division or 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 use may be permitted if specific provision for such special exception is made in this chapter.

STORY. The portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished for use. A *HALF STORY* containing independent apartments or living quarters shall be counted as a full story.

STREET. Includes streets, avenues, boulevards, roads, lanes, alleys, viaducts, highways, and other ways dedicated for public use.

(1) *STREET, INTERSECTING.* Any street which joins another street at any angle, whether or not it crosses the other.

(2) *STREET, PRIVATE.* Any private thoroughfare which affords access to abutting property.

STREET LINE. A dividing line between a lot, tract, or parcel of land and a contiguous street; the right-of-way line of a street.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, *STRUCTURES* include buildings, mobile homes, walls, fences, billboards, and poster panels.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

USE. The term employed to refer to any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained, or occupied; and an occupation, business, activity, or operation carried on, or intended to be carried on, in a building or other structure or on land.

USED or OCCUPIED. Include the words intended, designed, or arranged to be used or occupied.

VARIANCE. Deviation from the zoning code where such will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the zoning code would result in unnecessary and undue hardship. As used in this zoning code, a **VARIANCE** is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by **VARIANCE**, nor shall a **VARIANCE** be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

YARD. A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that customary yard accessories, ornaments, and furniture may be permitted in any **YARD** subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT. A yard extending between side lot lines across the front of a lot adjoining a public street.

(1) *Obstruction to view.* In any required **FRONT YARD**, no fence, wall, or hedge shall be permitted. No shrub or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and ten feet.

(2) *Through lots.* In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, **FRONT YARDS** shall be provided on all frontages. Where one of the **FRONT YARDS** that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Planning Commission, with approval of the Board of Trustees, may waive the requirement for the normal **FRONT YARD** and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

(3) *Corner lots.*

(a) In the case of corner lots which do not have reversed frontage, a **FRONT YARD** of the required depth shall be provided in accordance with the prevailing yard pattern and a second **FRONT YARD** of one-half the depth required generally for **FRONT YARDS** in the district shall be provided on the other frontage.

(b) In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, or a second front yard of one-half the depth required generally for front yards in the district shall be provided on the other frontage.

(c) In case of corner lots with more than two frontages, the administrative officials shall determine the *FRONT YARD* requirements, subject to the following limitations:

1. At least one *FRONT YARD* shall be provided having the full depth required generally in the district; and

2. No other *FRONT YARD* on such lot shall have less than one-half the full depth required generally.

(4) ~~Depth~~, ~~Depth of~~ required *FRONT YARDS* shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lines would have met without such rounding. Front and rear front yard lines shall be parallel.

YARD, REAR.

(1) A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no *REAR YARDS*, but only front and side yards.

(2) The depth of a required *REAR YARD* shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

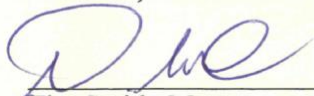
YARD, SIDE.

(1) A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, *SIDE YARDS* shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half depth front yards have been established shall be considered *SIDE YARDS*.

(2) The width of a required *SIDE YARD* shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

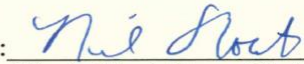
YARD, SPECIAL. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the Planning Commission, with approval of the Board of Trustees, shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by a relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

PASSED AND APPROVED BY THE BOARD OF TRUSTEES OF FOR THE TOWN OF FORT GIBSON, OKLAHOMA, THIS 22 DAY OF May, 2023.



Tim Smith, Mayor

ATTEST:



Nicole Sloat, Town Clerk

