

**ORDINANCE NO. 3582**

**AN ORDINANCE AMENDING THE BROKEN ARROW CODE OF ORDINANCES, APPENDIX A – ZONING ORDINANCE, CHAPTER 1, GENERAL PROVISIONS, SECTION 1.4, APPLICABILITY AND JURISDICTION; SPECIFICALLY CHANGING THE NAME OF DEVELOPMENT SERVICES DEPARTMENT TO THE DEPARTMENT OF COMMUNITY DEVELOPMENT; REPEALING ALL ORDINANCES TO THE CONTRARY**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:**

**SECTION I.** That Appendix A - Zoning Ordinance, Chapter 1-General Provisions, Section 1.4- Applicability and jurisdiction shall be amended as follows:

1.4 - Applicability and jurisdiction.

A. *General applicability.* The provisions of this Ordinance shall apply to all land, buildings, structures, and uses thereof located within the City of Broken Arrow, unless an exemption is provided by the terms of this Ordinance.

B. *Annexed territory.*

1. Whenever any vacant lot, parcel, or tract of land is annexed into the City of Broken Arrow, said territory shall be classified as "A-1," Agricultural District; provided that any portion of such lot, parcel, or tract of land designated as 100-year floodplain shall be classified as "FD," Floodplain District.
2. Whenever any individual lot or parcel, or any unplatted tract of land that is occupied by a lawful existing use and a viable structure is annexed into the City of Broken Arrow, said territory may be assigned a zoning classification by the City Council which zoning classification most closely corresponds to the actual primary use of said tract of land. This zoning classification shall be joined with the prefix "A" to indicate the transitional nature of the assigned zoning.
3. Whenever any platted subdivision of land is annexed into the City of Broken Arrow, and (a) any lot or block thereof is occupied by a lawful existing use and viable structure, and (b) said use is in conformity with the City's adopted comprehensive plan, then said subdivision may be assigned a zoning classification by the City Council which zoning classification most closely corresponds to the actual primary use of the occupied portion of the subdivision. No transitional prefix "A" need be used. Any vacant lots may be built upon thereafter under the applicable Building Codes, setback and other requirements associated with that zoning and without the requirement to apply for the same zoning category without the transitional prefix.
4. The Department of Community Development shall investigate and recommend the most appropriate zoning classification for consideration by the City Council. The determination of the most appropriate recommendation shall be that classification having the least density, but allowing the primary use to be a lawful and conforming use by right. In the event more than one recommendation would meet this requirement, the

determination of the appropriate recommendation will be made in accordance with the zoning classification that would have the fewest significant, non-conforming physical requirements. Provided that the City Council retains the right to annex occupied land and assign an "A-1" Agricultural District as the transitional zoning category.

5. All such property, regardless of the transitional zoning classification, shall be subject to all provisions of this ordinance. Annexed territory shall remain within the transitional zoning classification assigned at the time of annexation until rezoned to another classification in the manner prescribed by law.
  6. The use of any land or structures given transitional zoning under paragraph 2 may not be physically expanded, or any new structure constructed, without site plan review and compliance with all applicable zoning requirements. Any unplatted land given transitional zoning under paragraph 2, on which the primary use is discontinued or proposed to be altered, must a) be platted, b) undergo site plan review and c) comply with all applicable zoning requirements prior to the new or expanded use of the land or any structures.
  7. (This section amended 10-06-2009) No new use may be commenced on unplatted property with transitional zoning under paragraph two (2) which is not located within a 100-year floodplain, without obtaining appropriate conventional zoning. New uses can be commenced on platted land, which is not within a 100-year floodplain, with transitional zoning, provided the plat contains all the necessary public features, such as right-of-way and utility easements. Zoning assigned under paragraph 3 shall not be considered transitional zoning for this purpose, but may be changed upon a proper application.
  8. Any land that was once annexed to the City of Broken Arrow and that was later de-annexed shall be assigned to A-1, Agricultural District, upon any subsequent annexation.
- C. *Application to governmental agencies.* To the extent allowed by law, the provisions of this Ordinance shall apply to all land, buildings, structures, and uses owned by government agencies in the City of Broken Arrow. Where the provisions of this Ordinance do not legally control such land, buildings, structures, and uses owned by government agencies, such agencies are encouraged to meet the provisions of this Ordinance.
- D. *Compliance required.* No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with all of the applicable regulations established by this Ordinance. No lot of record that did not exist on the effective date of this Ordinance shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this Ordinance.
- E. *Zoning clearance permit.* Any tenant change or business use change that commences on or after February 1, 2015, within the DM, DF, ON, CN, CG and CH Zoning Districts, or a part of these districts shall obtain a Zoning Clearance (ZC) Permit, issued by the Department of Community Development.

**SECTION II.** Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

**PASSED AND APPROVED** this 3<sup>rd</sup> day of June, 2019.

s/ Craig W. Thurmond  
MAYOR

ATTEST:

s/ Curtis Green  
(SEAL) City Clerk

APPROVED:

s/ Kim Slinkard  
Deputy City Attorney