

ORDINANCE NO. 1149

AN ORDINANCE AMENDING THE NICHOLS HILLS CITY CODE BY CLARIFYING THE DEFINITIONS AND USE OF THE WORDS “ADDITION,” “ALTERATION,” AND “REPAIR” AND REMOVING THE WORD “REMODEL,” ALL RELATED TO CONSTRUCTION OF BUILDINGS IN VARIOUS CONTEXTS; REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NICHOLS HILLS, OKLAHOMA:

Section 1. Section 50-3 of the Nichols Hills City Code is hereby amended by adding the following definitions, to be added to such Section in alphabetical order as follows, with new language underlined, to wit:

Addition (when used in this Code in reference to buildings and construction) means an extension or increase in floor area or height of an existing building.

Alteration (when used in this Code in reference to buildings and construction) means any construction or renovation to an existing building that requires a building permit and that is not a repair or an addition.

Repair (when used in this Code in reference to buildings and construction) means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

Section 2. Section 8-62 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

Sec. 8-62. Maintenance and disposal of construction materials and waste.

No lumber, bricks, stone, sand or other building materials which are not an integral part of a building or other structure shall be kept or stored on any premises within the City within sight from a public street except such materials as shall be necessary and incident to any construction, repair, addition or alteration ~~remodeling~~ work that shall be in progress on such premises. All construction sites will be required to place construction waste in a commercial type dumpster. Failure to comply with the requirements of this Section shall constitute an offense, and, upon conviction thereof, shall be punishable by a fine not exceeding \$200.00 and costs.

Section 3. Section 8-93 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

Sec. 8-93. Expiration of permits upon delay or ceasing of construction.

Any permit issued for or in conjunction with a new building, an addition to an existing building or ~~remodeling~~ alteration of an existing building shall remain valid as long as work is in progress. If work ceases for more than 30 days, the permit shall expire and become null and void and a new permit shall be obtained before work can be resumed.

Section 4. Subsection (b) of Section 8-487 as to *International Property Maintenance Code Section 104.3* of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

(b) The International Property Maintenance Code adopted in this Article is amended and changed in the following respect:

Section 104.3 Right of entry. Change to Read: “Whenever the Code Official deems it desirable to make an inspection of premises in the City, in order to determine the existence of violations of any provision of this Code pertaining to the health, welfare, or safety of the public, he shall be allowed entrance to the premises for these purposes if any of the following conditions exist:

- (1) Entry is by permission or at the request of the occupant of the premises or of the person in apparent charge; or
- (2) Where an imminent danger to health, welfare, or safety exists; or
- (3) Following an accident where an immediate inspection is required to determine if an imminent danger to health, welfare, or safety exists.

If entry is refused or delayed by the occupant or person in apparent charge of the premises, or if the conditions stated in this Section do not exist, then the Code Official may apply to a proper magistrate for a search warrant to authorize entry into the designated premises for the purpose of making an inspection to determine the existence of a violation of any provisions of this Code pertaining to the health, welfare or safety of the public. Probable cause for the purpose of a search warrant issued pursuant this Section shall be:

- (1) *Routine inspection.* That the inspection of the designated premises is part of a routine area inspection being conducted;
- (2) *Knowledge of violation.* That the applicant for the warrant has knowledge of a violation or knowledge of facts which would indicate a violation of any provision of this Code pertaining to the health, safety or welfare of the public, and such applicant has stated the facts upon which his knowledge is based;
- (3) *Inspection after alteration, ~~remodeling~~ addition or improvement.* That the inspection is for the purpose of inspecting, during the course, or upon

completion of, alteration, ~~remodeling~~ addition or improvements in the premises;

- (4) *Checking conditions after accident.* That the inspection is for the purpose of checking the conditions existing in the premises following an accident or casualty therein where an inspection is required to determine if an imminent danger to health and safety exists;
- (5) *Licensing of buildings and structures.* That the inspection is for the purpose of checking the conditions existing in any building or structure requiring a license before occupancy upon application for or renewal of such license.”

Section 5. Subsections (e) and (g) of Section 50-106 of the Nichols Hills City Code are hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

(e) *Applicability.* Effective with the date of this Section the following activities within the overlay district shall require formal City review under the provisions of this Section:

- (1) Application for zoning change.
- (2) Application for subdivision plat or re-plat approval.
- (3) Application to dedicate or vacate a street, alley, or right-of-way easement.
- (4) Application to expand, decrease, or relocate any parking facilities located within the portion of the overlay district north of Avondale Drive.
- (5) Application for demolition of a structure, provided that an emergency declaration and permit may be issued by the (fire chief, City manager, or City council).
- (6) Application for ~~remodel~~ addition to, alteration or reconstruction of a structure that increases the gross square footage of the structure by ten percent or more or when the proposed improvements exceed 30 percent of the existing structures appraisal value.
- (7) Application for permit for a new building.

(g) *Planned unit development (PUD) guidelines for the town center overlay district.* Listed below are specific requirements and general guidelines for development in the district.

- (1) *Exterior boundaries.* A PUD shall show detailed treatment of all exterior boundaries of the district, including, but not limited to:
 - a. There shall be a landscape buffer or visual separation along the Grand Boulevard frontage.
 - b. Western Avenue and Northwest 63rd Street frontages shall show, at a minimum:
 1. Commitments for specific improvements, including sidewalks or pedestrian ways, along the entirety of both frontages, and commitment to appropriate landscaping, to be installed by the developer at time of new construction, addition or alteration ~~remodeling~~;
Access points to the district, including streets and driveways;

3. Proposed building sites with a relationship to these arterial streets.
- c. Buildings and activities should be designed to be scaled down in intensity of use, building height, and traffic impacts as the development approaches the residential area bordering the overlay district.

(2) *Interior considerations.*

- a. General landscape concepts for the development area shall be submitted at time of initial consideration of the PUD, and specific landscape plans shall be submitted for approval with site development plans at the building permit stage. The planned unit development ordinance establishes these review procedures.
- b. The PUD shall provide improvements for pedestrian movement, including sidewalks along all streets and adjacent to buildings that are separated from a street by a parking lot or structure.
- c. Adjustment of front yard setback from the standard 25 feet will be considered to encourage creative parking solutions and increase the pedestrian scale of the area.
- d. The PUD may provide for an increase in building heights from the C-2 maximum height of 40 feet, based on a design that provides for added setback for that part of the structure exceeding 40 feet, when the parcel on which the structure is located is abutting or separated by a public street, alley, right-of-way or easement from any R-1 or R-2 residential districts.
- e. Interior traffic circulation. The PUD master development plan shall establish a basic traffic circulation system including access points by street and driveway from the exterior. The plan must minimize the potential for nonresidential traffic to use local residential streets to enter or leave the overlay district. When individual areas are submitted for development after adoption of a PUD, the required site development plans may have to be expanded to reflect relationship to off-site streets.

Section 6. Subsection (a) of Section 50-130 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

(a) *Accessory sign regulations for E-Estate and R-Residential districts.*

- (1) No billboard, signboard, or advertising signs shall be permitted, except:
 - a. Signs advertising, endorsing, or opposing a candidate for public office or a public question to be voted on at an election to be held pursuant to the election laws of the State or the City charter.
 - b. Signs expressing a view or opinion on a public issue.
 - c. A maximum of two signs per property from the following categories:
 1. One “for sale” or “for rent” sign.
One sign identifying a general contractor who is engaged in the

- construction, repair, or ~~remodeling~~ alteration of or addition to a building.
- d. Sign recognizing a significant family event such as a birth, homecoming, graduation, or wedding, said sign to be removed after 48 hours.
 - e. Temporary holiday, athletic or school spirit signs.
- (2) Maximum display area. Five square feet.
 - (3) Maximum height. 44 inches.
 - (4) Location. All such signs must be wholly confined to private property by or with the permission of the property owner and shall be set back at least ten feet from the curbline or the nearest edge of the street paving if there is no curb. As prohibited by subsection (e) of this Section, all such signs are prohibited on public proeprty and street right-of-way.
 - (5) Removal.
 - a. Any “for sale” or “for rent” sign shall be removed within three days after the closing on the sale or execution of the lease of the property.
 - b. Any contractor’s sign shall be removed immediately upon completion of the construction, repair, addition or ~~remodeling~~ alteration work being performed by the contractor.
 - c. Removal of such signs shall be the responsibility of both the owner of the premises on which such sign has been placed and the owner of the sign.
 - (6) Signs in violation subject to removal. Any sign erected or placed in violation of this subsection may be removed by the City and then held by the City for ten calendar days, during which time the sign may be retrieved by the owner of it, subject to payment to the City of a storage fee of one dollar (\$1.00) per sign. After the 10-day period, the City may dispose of the sign.

Section 7. Section 50-187 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

Sec. 50-187. Generally.

- (a) It is a violation of this Chapter for any person to change or permit the change in use of land, buildings, or structures, or to construct, alter, move, or ~~improve~~ add an addition to any building or structure until a building permit or certificate of occupancy has been obtained under the conditions set forth in this Section.
- (b) These regulations shall be enforced by the City.
- (c) While this Section does not require submittal of any documentation prior to formal application for a building permit or certificate of occupancy, property owners are

encouraged to consult with the City prior to making formal application to become familiar with the policies and requirements set forth in this Section.

Section 8. Subsections (b) and (c) of Section 50-190 of the Nichols Hills City Code are hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

(b) In all zoning districts, whenever a building permit has been issued for new construction, ~~remodeling~~ addition or ~~add-on~~ alteration work related to existing structures, and codes permit continued occupancy of the existing improvements, no occupancy of the new project area shall take place until the building Code Official has issued a certificate of occupancy. If occupancy of a property occurs without the issuance of a certificate of occupancy, no new building permit will be issued to the general contractor at any location within the City until all final inspections have been successfully obtained and the certificate of occupancy has been issued for such property.

(c) The building Code Official may issue a certificate of occupancy on a temporary basis when he has determined that:

- (1) The construction project has been substantially completed except for non-code finishing details which can be completed within 30 days; and
- (2) Occupancy does not constitute a danger to the health, safety, and welfare of the community.

Section 9. Section 22-48 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

Sec. 22-48. Adoption of Life Safety Code.

The NFPA 101 Life Safety Code, 1994 edition, is hereby adopted by reference and copies thereof shall be filed and kept in the office of the City Clerk. The City Clerk shall keep copies of such code for distribution or sale to the public at approximate cost. All buildings and structures hereafter constructed, ~~remodeled~~ or materially altered or as to which an addition is made, shall conform to the requirements of such code. A copy of the code adopted in this Article is available for review in the office of the City Clerk.

Section 10. Subsection (b) (7) of Section 30-2 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

(b) The term “public nuisance” shall include, without limitation, the following:

- (7) All loud noises which may annoy or prevent others’ enjoyment of the use of their property or of the parks, streets and public ways within the City. For the purpose of this Section, the term “loud noise” means not less than 55 decibels as measured on a sound level meter of type 2 or better as specified in American National Standards Institute, using the A-weighted network scale, measured at the property line of the property from which the noise

emanates. It shall be the responsibility of the owner, or person in control, of the property to maintain noise levels within these prescribed limits. The following sources of potentially excessive sound shall be exempt from the requirements of this subsection:

- a. Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, emergency vehicle sirens or horns when responding to an emergency.
- b. Church bells or chimes.
- c. Performance of construction, demolition, and/or repair work on any public project or public utility project.
- d. Performance of construction, repair, addition or ~~remodeling~~ alteration work provided that a permit has been issued by the City Clerk for continuance or performance over such time periods as may be so stated in the permit.

Section 11. Section 3-3 of the Nichols Hills City Code is hereby amended as follows, with deleted language dashed through and new language underlined, to wit:

Sec. 3-3 City Fee Schedule.

Chapter 50. Zoning.

Building permits and inspections.

~~Remodeling~~ Alterations and additions, per \$1,000 of estimated ~~remodeling~~ cost
...\$4.50

Plus plan examination fees..... See below

Section 12. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 13. The provisions of this ordinance are severable and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 14. EMERGENCY SECTION. WHEREAS, in the judgment of the Council it is necessary for the preservation of the peace, health, welfare and safety of the City of Nichols Hills, Oklahoma, and of the inhabitants thereof that the provisions of this ordinance be put into full force and effect immediately, and therefore an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED by the Council of the City of Nichols Hills, Oklahoma, on the 9th day of October, 2018.

APPROVED by the Mayor of the City of Nichols Hills, Oklahoma, on the 9th day of October, 2018.

ATTEST:

Kristi Hort
City Clerk

E. Peter Hoffman, Jr.
Mayor

Reviewed as to Form and Legality:

John Michael Williams
City Attorney