

ORDINANCE NO. 2019-08

AN ORDINANCE OF THE TOWN OF LUTHER, OKLAHOMA, ADDING ARTICLE F. "SPECIFIC USE PERMITS," AND SPECIFICALLY ADDING SECTION 12-250, "PURPOSE," WHICH SETS FORTH THE PURPOSE OF THE SPECIFIC USE PERMIT PROCESS; ADDING SECTION 12-251 "CONDITIONS FOR APPROVAL," WHICH ESTABLISHES THE REQUIREMENTS TO OBTAIN A SPECIFIC USE PERMIT; ADDING SECTION 12-252 "SPECIFIC USE LIST," WHICH ESTABLISHES A LIST OF ALLOWABLE USES; ADDING SECTION 12-253 "USE CONDITIONS," WHICH PROVIDES THAT PARKING, YARD AND HEIGHT RESTRICTIONS, AND OTHER REQUIREMENTS OF THE ZONING CODE MUST BE ADHERED TO IN SPECIFIC USE PERMITS; ADDING SECTION 12-254 "ADMINISTRATION," WHICH ESTABLISHES THE PROCESS FOR ADMINISTRATION OF SPECIFIC USE PERMITS INCLUDING PERMITS, FEES, NOTICE, AND APPEALS; PROVIDING FOR REPEALER OF SECTION 12-241 "USES PERMISSIBLE ON REVIEW; REPEALING ALL PRIOR ORDINANCES TO THE CONTRARY; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

RECITALS

WHEREAS, effective November 1, 2003, the Legislature of the State of Oklahoma approved Title 11, Section 43-113 of the Oklahoma Statutes, allowing municipalities the authority to regulate land use by the issuance of "Specific Use Permits," and established guidelines for the issuance of said permits; and

WHEREAS, the Oklahoma Legislature has authorized cities to determine those uses which, because of the size of the land they require or the specialized nature of the use, may more intensely dominate the area in which they are located and their effects on the general public are broader in scope than other uses permitted in the district; and

WHEREAS, each specific use permit application shall be viewed as to its probable effect on the adjacent properties and community welfare and may be approved or denied as the findings indicate appropriate; and

WHEREAS, approval of this ordinance is in the best interest of the residents of the Town of Luther.

THEREFORE, BE IT ORDAINED BY THE TRUSTEES OF THE TOWN OF LUTHER, AS FOLLOWS:

SECTION I. Section 12-250 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 12-250 PURPOSE

The Town Board may, after a public hearing and recommendation by the Planning Commission and after conducting a public hearing as is required in accordance with the provisions of this section, authorize for specific parcels of land, the issuance of a Specific Use Permit.

The uses listed in the Specific Use List are so clarified because of the size of the land they require or the specialized nature of the use, or they may more intensely dominate the area in which they are located or their effects on the general public are broader in scope than other types of uses permitted in the district.

The designation of a Specific Use Permit as possible on the Specific Use List does not constitute an authorization or an assurance that such use will be permitted. Rather, each Specific Use Permit application shall be valued as to its probable effect on the adjacent property and community welfare and may be approved or denied as the findings indicate appropriate.

SECTION II. Section 12-251 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 12-251 CONDITIONS FOR APPROVAL

A. Plans and Data to be Submitted

Prior to submission of a request for a Specific Use Permit, the Town Office Manager may require one or more pre-application conferences with the potential applicant. In considering and determining its recommendation to the Town Board relative to any application for a Specific Use Permit, the Planning Commission will establish the requirements necessary for consideration of the application. The Commission shall also set a deposit amount from the applicant sufficient for payment of the application and permit expenses. The requirements and amount of deposit may be adjusted by the Planning Commission as necessary during the application process. The Planning Commission may require that the applicant furnish preliminary site plans and data concerning the operation, location, function and characteristics of any use of land or building proposed. For uses in which the land use has possible environmental impact, the Commission may require those engineering and/or environmental impact studies necessary for evaluation of the proposed use.

B. Planning Commission Requirements

The Planning Commission may recommend to the Town Board that certain safeguards and conditions concerning bonding, insurance, setbacks, ingress and egress, off-street parking and loading arrangements and location or construction of buildings and uses and operation be required. If the Planning Commission fails to review and make a

recommendation within 45 days from the date the application is accepted for processing, the Town Board may take action on the application.

C. Town Board Requirements

The Town Board may, in the interest of the public welfare and to assure compliance with the intent of this ordinance and the Luther Comprehensive Plan, require such development standards and operational conditions and safeguards as are indicated to be important to the welfare and protection of adjacent property and the community as a whole and be compatible with the natural environment and the planned capacities of public services and facilities affected by the land use. This may include the requirement of having the property platted and/or the requirement of the dedication of sufficient right-of-way or easement as necessary to further the public good. The Town Board may impose conditions including, but not limited to, bonding, insurance, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, lighting, noise levels, signage, landscaping, parking and loading, compatibility, and land use density as may be indicated depending upon the proposed use and its potential effect on adjacent areas or the community.

D. Site Plans

A Site Plan setting forth the conditions specified may be required of the applicant and such plan when accepted shall be made a part of the permit issued for the specific use.

E. Designation of Zoning Map

A Specific Use Permit approved under the provisions of this ordinance shall not be considered as an amendment to the zoning ordinance. However, the Specific Use Permit shall be noted on the zoning map as follows: SUP - (the number of the request for a Specific Use Permit). Any of the conditions contained in a Specific Use Permit approval shall be considered as conditions precedent to the granting of a building permit for the specific use provided for.

F. Time Limits for Implementation

If for any reason the approved specific use ceases operation for a period of two years, then the approval of said specific use shall be considered void and will require another public hearing review by the Planning Commission and Town Board. This shall also apply to any approved specific use that does not begin operation within two years of approval. This voiding of approval shall not apply if orderly progress toward completion of construction is taking place. Uses existing before the adoption of the Specific Use Permit ordinance, including non-conforming uses and their incidental and accessory uses, must receive a Specific Use Permit before any expansion of the use is permitted.

SECTION III. Section 12-252 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 12-252

SPECIFIC USE LIST

The following uses are allowed in all zoning districts by Specific Use permit as granted by the Town Board:

Adult Entertainment Establishments
Airport - Heliport
Bus Station
Apartment Units of 9 Units or More
Bed and Breakfast – Short-term Rentals
Cemetery
Churches
Commercial Marijuana Growth Facilities
Commercial Resort Facilities
Commercial Theme Parks
Convalescent Homes
Convict Pre-Release Centers
Crematories
Cultural or Heritage Centers
Detention Centers – Juvenile and Adult
Driving Ranges
Electric Generation Plants and/or Substations
Fire Stations
Golf Courses
Governmental Services
Gun Clubs
Gun Shooting Ranges
Halfway Houses
Hospitals
Industrial Uses in Excess of 40 Acres
Kennels
Landfills
Libraries
Marijuana Storage Facilities
Mausoleums
Mini-Storages
Mining and Mineral Processing
Museums
Nursing Homes
Private Schools
Public Schools
Recycling Centers
Refuse Transfer Stations
Telecommunication Towers
Trade Schools

Water Treatment Facilities
Wholesale Marijuana Facilities

SECTION IV. Section 12-253 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 12-253 **USE CONDITIONS**

Specific uses permitted shall comply with the most restrictive yard and height requirements of the district in which located and in addition shall comply with the requirements, especially for parking and loading, as required per the related use unit in the Luther Zoning Code, except as may be modified by Town Board in accordance with the Code of Ordinances or state law.

SECTION V. Section 12-254 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 12-254 **ADMINISTRATION**

A. **Filing of an Application for a Specific Use Permit**

An Application for a Specific Use Permit may be filed with the Planning Commission by the owner(s) of the property concerned, by the duly authorized representative thereof, by the holder of an option to purchase the affected real estate or by the purchaser in a contract to purchase realty. Such Application shall be on a standard form furnished by the Town. All Applications for a Specific Use Permit shall be accompanied by a site plan of the proposed area showing the location of buildings, parking, and other pertinent data concerning the operation of the proposed use.

B. **Fee for Application**

A one-hundred dollar (\$100.00) fee shall be required with the Specific Use Permit Application, and such other fee as the Town Board may from time to time specify by resolution.

C. **Notice of Hearing**

Notice of the public hearing to consider a Specific Use Permit shall be mailed at least twenty (20) days before the public hearing held by the Planning Commission by mailing written notice to all owners of property within a three hundred foot (300') radius of the exterior boundary of the subject property, or such additional notice deemed necessary by the Planning Commission. Notice will be mailed by the Town Office Manager.

The notice shall contain:

1. The date, time and place of the public hearing.

2. The present zoning classification of the property and the nature of the Specific Use Permit.
3. The legal description of the property and street address or approximate location in the municipality.

D. Appeals and Confirmation by Town Board

An applicant, or any adversely affected person, may appeal a recommendation of denial by the Planning Commission to the Town Board within 10 days of the Planning Commission decision, by (a) completing a Notice of Appeal form that shall be available from the Town Office Manager; and (b) paying an appeal fee in the amount of \$100.00, or such fee as set by Board of Trustee by resolution or motion.

If an appeal is not timely filed, the recommendation of the Planning Commission shall be included on a Board of Trustees agenda for consideration, whereupon the Board may either accept the recommendation of the Planning Commission, reverse the recommendation of the Planning Commission, modify the decision of the Planning Commission, or remand the matter for further consideration by the Planning Commission.

If an appeal is timely filed, the Town Board shall establish a date specific for its decision and may affirm, reverse or remand the decision of the Planning Commission.


SECTION VI. Section 12-241 of the Luther Code of Ordinances pertaining to Uses Permissible on Review is hereby repealed in its entirety.

SECTION VII. If any part or parts of this ordinance are deemed unconstitutional, invalid, or ineffective, the remaining portion shall not be affected, but shall remain in full force and effect.

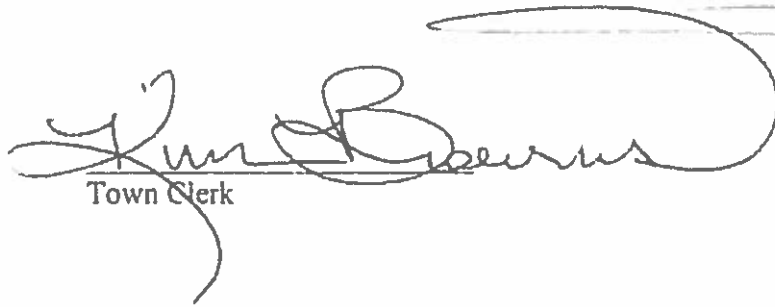
SECTION VIII. All ordinances in conflict herewith are hereby repealed.

SECTION IX. It being immediately necessary for the preservation of the public peace, health, safety, and welfare of the Town of Luther and the inhabitants thereof that this ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED and the Emergency Clause ruled upon separately
this 26th day of September, 2019.


Mayor Jenni White

ATTEST:


Town Clerk



Approved as to form and legality


Town Attorney