

PART 12

PLANNING, ZONING AND DEVELOPMENT

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CHAPTER 1

PLANNING COMMISSION

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SECTION 12-101 CREATED.

A town planning commission of the town is hereby established to compose, establish, develop, enact and enforce a comprehensive plan for the growth and development of this town, and the use of property located therein. A more complete statement of purposes and authority of this commission is set out herein. (Ord. No. 80-5, 12/16/80)

State Law Reference: Municipal planning commissions, 11 O.S. Sections 45-101 to 45-105.

SECTION 12-102 MEMBERSHIP.

The planning commission is to consist of five (5) regular members who are not officials or employees of the town, and other members as follows:

1. One member of the town council who shall be an ex officio member of the commission; and
2. The town clerk-treasurer who shall keep minutes of the meetings and be an ex officio member of the commission.

(Ord. No. 80-5, 12/16/80)

SECTION 12-103 EX OFFICIO MEMBERS.

The ex officio members of the commission shall be designated by the town board, subject to the respective agencies, right to removal and substitution as their rules may dictate. The term of an ex officio member shall be three (3) years. Ex officio members of the commission shall have no voting privileges, except as expressly provided herein, and shall have no right to present motions before it, but shall have the opportunity to participate in discussion and evaluation of proposals, and arguments in favor of and in opposition thereto. (Ord. No. 80-5, 12/16/80)

SECTION 12-104 TERMS.

The town planning commission shall consist of five (5) appointive members, all of whom shall be electors of the town. The appointive members shall be nominated by the chairman of the board and appointed by the board of trustees and shall serve for terms of three (3) years, the terms to end on the 1st Monday in January. Of the original

appointive members, one shall serve until the first Monday in the next January after appointment; two (2) shall serve until the 1st Monday in January two (2) years later. Vacancies shall be filled for the unexpired terms. The members shall serve without compensation. The board of trustees may remove members of the town planning commission for cause or for missing three (3) or more of the regularly scheduled meetings. (Ord. No. 80-5, 12/16/80)

SECTION 12-105 OFFICERS, ORGANIZATION.

The planning commission shall select one of its regular members as chairperson. The term of the chairperson shall be one year. Should the chairperson be unable to attend a meeting, the members shall select an interim chairperson. Only regular members shall be entitled to vote when selecting a full-time or interim chairperson. (Ord. No. 80-5, 12/16/80)

SECTION 12-106 MEETINGS.

The planning commission shall meet on the second Monday of each month at 7:00 P.M. in the town hall. (Ord. No. 80-5, 12/16/80; Ord. No. 85-7, 12/17/85)

SECTION 12-107 OPEN MEETINGS.

All meetings of the planning commission shall be public, except when they involve the employment or dismissal of a public officer or employee, or when they involve hearing complaints or charges brought against such an officer or employee. The requirement of a closed hearing may be waived by a writing signed by the subject public officer or employee, or any person being considered for such positions, demanding a public hearing. (Ord. No. 80-5, 12/16/80)

State Law Reference: Open meeting act, 25 O.S. Sections 301 et seq.

SECTION 12-108 RECORDS, POWERS.

The planning commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. The commission shall exercise such powers and perform such duties as are required of it by state law or direction of the town board. (Ord. No. 80-5, 12/16/80)

SECTION 12-109 POWERS AND DUTIES.

The planning commission shall, in addition to its other duties, have the following jurisdiction and authority to:

1. Prepare and recommend a comprehensive general plan for the future development of the town and to review the provisions of such plan and make a report of its findings and recommendations to the town board;
2. Initiate a review of the provisions of the zoning ordinance and to make a report of its findings and recommendations;
3. Receive and act on applications for actions authorized and specified herein;

4. Hold public hearings on applications for conditional use permits and for proposed amendments to this chapter in the manner hereinafter prescribed;
5. Following public hearings, submit to the town board as required herein, a report and recommendations on each such amendment;
6. Act on applications for a conditional use permit in the manner prescribed and within the limitations established herein;
7. Authorize, on application as provided herein, variance from the terms of this ordinance in the manner prescribed and within the limitations established herein; and
8. Hear and decide appeals in the manner prescribed herein where it is alleged there is an error in any order, requirement, decision or determination made by any town official, in the interpretation or enforcement of this chapter.

(Ord. No. 80-5, 12/16/80)

CHAPTER 2

ZONING REGULATIONS

SECTION:

12-200: Zoning Regulations Adopted

Article A. General Provisions

12-201: Purpose
12-202: Authority
12-203: Definitions

Article B. Specific District Regulations

12-210: General
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- 12-243: Board Of Zoning Appeals
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- 12-248: Codification
- 12-249: Declaration Of Emergency

12-200: **ZONING REGULATIONS ADOPTED¹:** There is hereby adopted ordinance 88-3, which establishes the town's zoning regulations. Any violation of the town's zoning regulations is punishable as provided in section 1-108 of this code. (Ord. 79-4, 12-20-1979; amd. Ord. 88-3, 3-8-1988)

1. See also part 5 of this code on building and construction regulations, mobile homes, residential code.

ARTICLE A

GENERAL PROVISIONS

SECTION 12-201 PURPOSE.

For the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property and property values; to secure the most appropriate use of land; and to facilitate adequate but economical provision of public improvements, all in accordance with a comprehensive Master Plan, the Board of Trustees of this Town finds it necessary and advisable to regulate the location, height, bulk, number of stores and size of buildings and other structures, and the uses of land for trade, industry, residence, agriculture, recreation or other purposes divides the incorporated area of the Town into districts or zones.

Section 12-202 AUTHORITY.

These planning and zoning regulations are adopted by ordinance passed by the town board under the authority granted by Sections _____ of Title 11 of the Oklahoma Statutes.

State Law Reference: _____

Section 12-203 DEFINITIONS.

For the purpose of these regulations, words used in the present tense include the future tense, the singular number includes the plural number, and the plural number includes the singular number; the term "building" includes the term "structure"; the term "occupied" includes the term "designated or intended to be occupied"; the term "used" includes the term "arranged, designed or intended to be used." The term "shall" is mandatory and not directory.

1. "Accessory Building" A building, located on the same lot with the main building, the use of which is accessory thereto.

2. "Accessory Use" A use or building customarily incident to and located on the same lot with another use or building.

3. "Alley" A right-of-way, dedicated to public use, which affords 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.

4. "Alterations, Structural" Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

5. "Apartment" A room or suite of rooms in an apartment house which room or suite of rooms is arranged, intended, designed and constructed or reconstructed to be occupied as a residence of single family, individual, or group of individuals.

6. "Apartment House" A building or portion thereof used as a residence for three or more families living in separate complete housekeeping units.

7. "Bathroom" A room within the structure containing at least a washbasin and water closet, and a permanently installed tub or shower bath.

8. "Block" A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets (active and/or vacated), highways, railroad right-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof.

9. "Building" Any structure built for the support, shelter, or enclosure of persons, animals, mechanical devices or chattels, and when separated by division walls without openings from the ground up, each portion of such structure shall be deemed a separate building.

10. "Building Area" The maximum horizontal projected area of a building and its accessory buildings, excluding open steps, buttresses, terraces, cornices and other minor, ornamental features projecting from the walls of the building, not otherwise supported by the ground.

11. "Building, Height of" The vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the roof.

12. "Building Line or Setback Line" A line or lines designating the area outside of which buildings may not be erected.

13. "Construction" Construction shall be deemed begun when ground is broken for the purpose of the erection of any building falling under the jurisdiction of this ordinance.

14. "Courtyard" That part of a lot which is unoccupied from the ground to the sky or from an intermediate floor to the sky; and in relation to a story of a building it shall mean the part of a lot which is unoccupied above a horizontal plane passing through such story at the level of the sill of the lowest window transmitting light from the courtyard to such story.

15. "Easement" A grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for specific purposes.

16. "Family" A number of individuals related by blood, marriage or adoption living and cooking together on the premises as a single housekeeping unit and including domestic employees.

17. "Front Lot Line" The line of a lot coincident with the principal road line thereof, synonymous with front property line or property frontage. If there is not established right of-way side line for a road or street, such line shall be deemed to be thirty (30) feet from the center of the road.

18. "Garage" A building or space used as an accessory to a main building permitted in any residential district and providing for the storage of motor vehicles and in which no business, occupation or service for profit motive is in any way conducted.

19. "Grandfather Clause" See "Nonconforming Use".

20. "Higher Use" A more restricted use.

21. "Intersection" The junction of any two or more dedicated and accepted public streets and that area common to both.
22. "Lot" A subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development.
23. "Lot, corner" A lot located at the intersection of and abutting on two (2) or more streets.
24. "Lot, double frontage" A lot which runs through a block from street to street and which has two (2) non-intersecting sides abutting on two (2) or more streets.
25. "Lot, reverse frontage" A double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.
26. "Lot, Width of" The mean horizontal distance between the sides of the lot, measured at the center of the building.
27. "Lower Use" A less restricted use.
28. "Master plan" The comprehensive development plan for the town which has been officially adopted to provide long-range development policies for the areas subject to urbanization in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, circulation and community facilities.
29. "Manufactured home" A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code.
30. "Nonconforming Use" Any lawful use or land, building or structure existing at the time of adoption of the Zoning Map, which does not conform with the regulations of the district in which it is situated.
31. "Parking Space" A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.
32. "Percentage of Lot Occupancy" That percentage of the area of a lot, as herein defined, which is occupied as building area.
33. "Planning Commission" The Luther Planning Commission.
34. "Porch" A roofed open structure projecting from front, side or rear wall of a building.
35. "Principal Use" The predominant or main use to which a property is or may be devoted and to which all other uses on the premises are accessory.

36. "Rear Lot Line" The property line opposite the front lot line. If a lot is not in the form of a rectangle but is irregular in shape there shall be no rear lot line unless the principal building on the lot faces an angle thereof, the one side of the angle shall be the front lot line and line opposite the angle shall be the rear lot line.

37. "Repair Garage" A building or space for the storage of motor vehicles at which repairs on any kind of motor vehicle are permitted or at which the sale of accessories and filling station service is permitted.

38. "Rest Home" A structure designed and operated for the care of aged or infirm persons.

39. "Service Station" A building where gasoline, oil and greases are supplied and dispensed to the motor vehicle trade.

40. "Setback Line" See "Building Line"

41. "Sign, Advertising (or Structure)" Any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone or other sign, device or structure of any character whatsoever, including statuary, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other wise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross-section of such structure. Neither directional, warning nor other signs posted by public officials in the course of their public duties shall be construed as advertising signs for the purpose of this definition.

42. "Single-Family Dwelling" A dwelling entirely detached and independent from any other principal structure, arranged, intended, designed and constructed or reconstructed to be occupied by a single family.

43. "Street" means any public or private right-of-way which affords the primary means of access to abutting property.

44. "Structure" Anything erected, constructed or reconstructed on a foundation, posts, piles, blocks, skids, sills, or other support which is or is not permanently located in, or attached to, the soil.

45. "Structural Change or Alteration" Any change in the supporting members of a building such as bearing walls or partitions, columns, beams, or girders, excepting such structural change as may be required for the safety of the building.

46. "Town" Means the Town of Luther, Oklahoma.

47. "Town Board" Means the Luther Town Board.

48. "Town House" See "Apartment House"

49. "Yard" An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building or setback line shall be used.

SECTION 12-210GENERAL.

For the purpose of carrying out the provisions of this ordinance, the incorporated area of the Town of Luther is hereby divided into the following districts:

1. Residential, which shall be designated as "R-1" districts.
2. Manufactured Housing, which shall be designated as "R-2" districts.
3. Multi-Family Housing, which shall be designated as "R-3" districts.
4. Manufactured or Mobile Home Community/Park, which shall be designated as "R-4" districts.
5. Business and Commercial, which shall be designated as "B" districts.
6. Industrial and Manufacturing, which shall be designated as "I" districts.
7. Agricultural, which shall be designated as "A-1" districts.
8. Agricultural-Restricted, which shall be designated as "A-2" districts.

SECTION 12-211R-1 DISTRICT (RESIDENTIAL).

1. **GENERAL DESCRIPTION.** This district is intended for the purpose of providing guidelines and zoning restrictions for the general residential areas of the community. The majority of the development in this district will be conventional single family dwellings.

2. **USES PERMITTED.** Property and buildings in an R-1 District shall be used only for the following purposes:

- a. Detached single or two-family dwellings, but excluding tents, cabins and manufactured housing.
- b. Churches
- c. Publicly owned schools.
- d. Publicly operated recreation or water supply, publicly owned parks and/or publicly owned playgrounds.
- e. Home business, providing such use does not involve any extension or modification of said dwelling which will alter its outward appearance as a dwelling, and providing such uses does not involve any outward evidence of such use other than a sign as authorized in other sections of this ordinance.

3. **USES PERMISSIBLE ON REVIEW.** The following uses may be permissible on review by the Town Planning Commission in accordance with provisions contained in Section 12-241 of this Ordinance.

- a. Municipal use, public building and public utility, provided that any structures incidental to these uses are located thirty-five (35) feet from any property line.
- b. Hospital, sanitarium or rest home, providing that any such hospital, sanitarium or rest home shall have a lot area of not less than five (5) acres and a frontage on a public thoroughfare of not less than five hundred (500) feet.

4. AREA REGULATIONS.

a. Front Yard.

- (1) The minimum setback line for the front yard is twenty-five (25) feet from the front lot line to the building line (steps and uncovered porches of less than ten (10) feet in width are excluded).
- (2) If twenty-five percent (25%) or more of the lots between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulations shall not require a front yard of greater depth than forty (40) feet.

b. Side Yard.

- (1) Every building shall be erected with a minimum of ten (10) feet side lot clearance on each side. Attached garages or accessory buildings connected with the main building by a breezeway or other permanently constructed connection shall be construed to be part of the main building for the purpose of this section.
- (2) Accessory buildings may be located to the rear of the main buildings but may not be erected less than five (5) feet from a side lot line.
- (3) On any corner lot a building shall be set back from the street line of the intersecting street a distance of fifteen (15) in case such lot is back to back with another corner lot, and twenty-five (25) feet in every other case.

c. Rear Yard.

- (1) There shall be a minimum rear lot clearance at the rear of any building of at least five (5) feet from the rear lot line, which space shall remain open and unoccupied by any building or structure.

d. Minimum Lot Width.

- (1) No dwelling shall be erected on a lot having a frontage of less than seventy-five (75) feet on a public or private maintained road/street unless such lot was designated on a recorded plat or separately owned at the time this ordinance took effect and cannot practicably be enlarged to comply with this requirement.

e. Minimum Lot Area Per Dwelling: On computing lot areas, an area not to exceed one-half ($\frac{1}{2}$) of the width of the road or street right of way may be included if the lot owner holds title to the same.

(1) The minimum lot area for a detached single- or two-family dwelling with municipal water and sewer services is six thousand (6,000) square feet unless such lot was designated on a recorded plat or separately owned before the effective date hereof.

(2) The minimum lot area for a detached single- or two-family dwelling with individual water well and septic system is two and one-half ($2\frac{1}{2}$) acres of lot area unless such lot was designated on a recorded plat or separately owned before December 20, 1979.

5. Minimum Size Of Dwellings: Every dwelling or residence shall have a floor space designed and used for living quarters of not less than nine hundred (900) square feet per family unit exclusive of basements, porches, garages, breezeways, terraces or attics.

6. Maximum Height Of Buildings: No building shall be erected in an R-1 district to a height in excess of two and one-half ($2\frac{1}{2}$) stories or in excess of thirty five feet (35'), measured from the natural grade at the building line to the highest point on the roof, except that these provisions shall not apply to the height of a church spire, belfry, clock tower, wireless tower, chimney, water tank, elevator bulkhead, stage tower, scenery loft or other mechanical appurtenances when erected upon and as an integral part of such building. (Ord. 88-3, 3-8-1988)

12-212: R-2 DISTRICT (RESIDENTIAL/MANUFACTURED HOUSING):

A. 1. General Description: This district is intended for the purpose of providing guidelines and zoning restrictions for those residential areas which include manufactured housing. The majority of these areas will be in subdivisions which contain lots of two and one-half ($2\frac{1}{2}$) acres or more in size.

2. Uses Permitted: Property and buildings in an R-2 district shall be used only for the following purposes: (Ord. 88-3, 3-8-1988)

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a. Detached single- or two-family dwellings and manufactured housing, but excluding tents and cabins and provided further if a manufactured housing unit is moved onto a lot to replace an already existing manufactured housing unit, the existing manufactured housing unit must be removed within sixty (60) days. (Ord. 2006-02, 6-13-2006)

b. Churches.

c. Publicly owned schools.

d. Publicly operated recreation or water supply, publicly owned parks and/or publicly owned playgrounds.

- e. Home business, providing such use does not involve any extension or modification of said dwelling which will alter its outward appearance as a dwelling, and providing such uses does not involve any outward evidence of such use other than a sign as authorized in other sections of this ordinance.

3. USES PERMISSIBLE ON REVIEW. The following uses may be permissible on review by the Town Planning Commission in accordance with provisions contained in Section 12-241 of this ordinance.

- a. Municipal use, public building and public utility, provided that any structures incidental to these uses are located thirty-five (35) feet from any property line.
- b. Hospital, sanitarium or rest home, providing that any such hospital, sanitarium or rest home shall have a lot area of not less than five (5) acres and a frontage on a public thoroughfare of not less than five hundred (500) feet.

4. AREA REGULATIONS.

a. Front Yard.

- (1) The minimum setback line for the front yard is twenty-five (25) feet from the front lot line to the building line (steps and uncovered porches of less than ten (10) feet in width are excluded).
- (2) If twenty-five percent (25%) or more of the lots between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulations shall not require a front yard of greater depth than forty (40) feet.

b. Side Yard.

- (1) Every building shall be erected with a minimum of ten (10) feet side lot clearance on each side. Attached garages or accessory buildings connected with the main building by a breezeway or other permanently constructed connection shall be construed to be part of the main building for the purpose of this section.
- (2) Accessory buildings may be located to the rear of the main buildings but may not be erected less than five (5) feet from a side lot line.
- (3) On any corner lot a building shall be set back from the street line of the intersecting street a distance of fifteen (15) in case such lot is back to back with another corner lot, and twenty-five (25) feet in every other case.

c. Rear Yard.

- (1) There shall be a minimum rear lot clearance at the rear of any building of at least five (5) feet from the rear lot line, which space shall remain open and unoccupied by any building or structure.

d. Minimum Lot Width.

- (1) No dwelling shall be erected on a lot having a frontage of less than seventy-five (75) feet on a public or private maintained road/street unless such lot was designated on a recorded plat or separately owned at the time this ordinance took effect and cannot practicably be enlarged to comply with this requirement.

e. Minimum Lot Area Per Dwelling. On computing lot areas, an area not to exceed one-half of the width of the road or street right-of-way may be included if the lot owner holds title to the same.

- (1) The minimum lot area for a detached single or two family dwelling with municipal water and sewer services is 6,000 square feet unless such lot was designated on a recorded plat or separately owned before the effective date of this ordinance.
- (2) The minimum lot area for a detached single or two family dwelling with individual water well and septic system is two and one-half (2½) acres of lot area unless such lot was designated on a recorded plat or separately owned before December 20, 1979.

5. MINIMUM SIZE OF DWELLINGS.

Every dwelling or residence shall have a floor space designed and used for living quarters of not less than nine hundred (900) square feet per family unit exclusive of basements, porches, garages, breezeways, terraces or attics. (This provision does not apply to manufactured housing which is covered under a separate section. See Part 5, Chapter 8).

6. MAXIMUM HEIGHT OF BUILDINGS.

No building shall be erected in an R-2 district to a height in excess of two and one-half (2½) stories or in excess of thirty (35) feet, measured from the natural grade at the building line to the highest point on the roof, except that these provisions shall not apply to the height of a church spire, belfry, clock tower, wireless tower, chimney, water tank, elevator bulkhead, stage tower, scenery loft or other mechanical appurtenances when erected upon and as an integral part of such building.

SECTION 12-213R-3 DISTRICT (MULTI-FAMILY HOUSING).

1. GENERAL DESCRIPTION. This district is designed to provide areas for higher density residential development. These regulations are intended to ensure compatibility with adjacent districts.

2. USES PERMITTED. Property and buildings in the R-3 District shall be used only for uses permissible on review by the Town Planning Commission in accordance with provisions contained in Section 12-241 of this ordinance. Examples of uses in this district are apartments, town houses, and accessory buildings and uses customarily incidental to any of the above uses when located on the same lot.

3. AREA REGULATIONS.

a. Front Yard.

- (1) The minimum setback line for the front yard is twenty-five (25) feet from the front lot line to the building line (steps and uncovered porches of less than ten (10) feet in width are excluded).
- (2) If twenty-five percent (25%) or more of the lots between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulations shall not require a front yard of greater depth than forty (40) feet.

b. Side Yard.

- (1) Every building shall be erected with a minimum of ten (10) feet side lot clearance on each side. Attached garages or accessory buildings connected with the main building by a breezeway or other permanently constructed connection shall be construed to be part of the main building for the purpose of this section. Structures abutting other property in R-1 or R-2 Districts shall have additional side set backs at the ratio of one additional foot for each additional foot of building height over thirty-five (35) feet.
- (2) Accessory buildings may be located to the rear of the main buildings but may not be erected less than five (5) feet from a side lot line.
- (3) On any corner lot a building shall be set back from the street line of the intersecting street a distance of fifteen (15) in case such lot is back to back with another corner lot, and twenty-five (25) feet in every other case.

c. Rear Yard.

- (1) There shall be a minimum rear lot clearance at the rear of any building of at least five (5) feet from the rear lot line, which space shall remain open and unoccupied by any building or structure. Structures abutting other property in R-1 or R-2 Districts shall have additional rear set backs at the ratio of one additional foot for each additional foot of building height over thirty-five (35) feet.

d. Minimum Lot Width.

- (1) No building shall be erected on a lot having a frontage of less than seventy-five (75) feet on a public or private maintained road/street unless such lot was designated on a recorded plat or separately owned at the time this ordinance took effect and cannot practicably be enlarged to comply with this requirement.

5. MAXIMUM HEIGHT OF BUILDINGS.

In the R-3 District there shall be no limit on height of structures, provided that any portion of a structure exceeding thirty-five (35) feet in height is set back from side and rear lot lines abutting other property in residential districts at least one foot for each additional foot of height in addition to the minimum set-back.

SECTION 12-214R-4 DISTRICT (MANUFACTURED OR MOBILE HOME COMMUNITY/PARK).

1. GENERAL DESCRIPTION. This district is designed to encourage the developing of properly planned manufactured or mobile home communities or parks in residential environments, as well as to protect existing mobile home parks.

2. USES PERMITTED. All development in the R-4 District shall be on a case-by-case uses permissible on review by the Town Planning Commission in accordance with provisions contained in Section 12-241 of this ordinance.

3. AREA REGULATIONS AND SITE CRITERIA.

See See Chapter 8, Article B, Sections 5-820 to Section 5-825 of these ordinances.

SECTION 12-215B DISTRICT (BUSINESS AND COMMERCIAL).

1. GENERAL DESCRIPTION. This district is intended for the conduct of personal and business services and the general retail business of the community. Persons living in the community and the surrounding trade territory require direct and frequent access. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

2. USES PERMITTED. Property and buildings in an B District shall be used only for the following purposes:

- (a) Any use permitted in R-1, R-2 , R-3, or R-4 Districts.
- (b) Hotel, motel, rooming house, living quarters over business establishment, restaurant, lunchroom or garage.
- (c) Retail store or shop, repair shop, beauty parlor, funeral home, mercantile establishment, bank, office or office building, or studio.
- (d) Lodge hall
- (e) Gasoline filling and service station providing storage tanks are underground.

- (f) Indoor theater, bowling alley, skating rink.
- (g) Job printing, newspaper printing plant.
- (h) Builder's supply, ice storage and sales, plumbing and heating supply.
- (i) Licensed day care centers.
- (j) Any other retail store, shop or establishment serving the neighborhood in the manner stated above which in the opinion of the Planning Commission is similar in character to those above enumerated and is not more obnoxious or detrimental to the area in which it is located, by reason of noise, offensive odor, smoke, dust, vibration, traffic congestion or danger to life and property.

3. USES PERMISSIBLE ON REVIEW. The following uses may be permissible on review by the Town Planning Commission in accordance with provisions contained in Section 12-241 of this Ordinance.

- (a) Private Clubs and/or Night Clubs
- (b) Dance Halls
- (c) Taverns

4. AREA REGULATIONS.

a. Front Yard.

- (1) The minimum setback line for the front yard is twenty-five (25) feet from the front lot line to the building line (steps and uncovered porches of less than ten (10) feet in width are excluded).
- (2) If twenty-five percent (25%) or more of the lots between two intersecting streets are improved with buildings, all or which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulations shall not require a front yard of greater depth than forty (40) feet.

b. Side Yard.

- (1) Every building shall be erected with a minimum of ten (10) feet side lot clearance on each side. Attached garages or accessory buildings connected with the main building by a breezeway or other permanently constructed connection shall be construed to be part of the main building for the purpose of this section.
- (2) Accessory buildings may be located to the rear of the main buildings but may not be erected less than five (5) feet from a side lot line.

- (3) On any corner lot a building shall be set back from the street line of the intersecting street a distance of fifteen (15) in case such lot is back to back with another corner lot, and twenty-five (25) feet in every other case.

c. Rear Yard.

- (1) There shall be a minimum rear lot clearance at the rear of any building of at least five (5) feet from the rear lot line, which space shall remain open and unoccupied by any building or structure.

d. Minimum Lot Width.

- (1) No dwelling shall be erected on a lot having a frontage of less than seventy-five (75) feet on a public or private maintained road/street unless such lot was designated on a recorded plat or separately owned at the time this ordinance took effect and cannot practicably be enlarged to comply with this requirement. No minimum lot width shall be required in a B District for uses other than dwellings except such as is necessary to comply with the requirements for yard and lot areas or parking facilities.

e. Minimum Lot Area Per Dwelling. On computing lot areas, an area not to exceed one-half of the width of the road or street right-of-way may be included if the lot owner holds title to the same.

- (1) The minimum lot area for a detached single or two family dwelling with municipal water and sewer services is 6,000 square feet unless such lot was designated on a recorded plat or separately owned before the effective date of this ordinance.
- (2) The minimum lot area for a detached single or two family dwelling with individual water well and septic system is two and one-half (2½) acres of lot area unless such lot was designated on a recorded plat or separately owned before December 20, 1979.
- (3) No living quarters over a business establishment, restaurant, lunchroom or garage shall accommodate more than one family for each twenty-five hundred (2500) square feet of lot area.

5. MINIMUM SIZE OF DWELLINGS.

Every dwelling or residence shall have a floor space designed and used for living quarters of not less than nine hundred (900) square feet per family unit exclusive of basements, porches, garages, breezeways, terraces or attics. (This provision does not apply to manufactured housing which is covered under a separate section. See Part 5, Chapter 8).

6. MAXIMUM HEIGHT OF BUILDINGS.

In the B District there shall be no limit on height of structures, provided that any portion of a structure exceeding thirty-five (35) feet in height is set back from side and rear lot lines abutting other property in residential districts at least one foot for each additional foot of height in addition to the minimum set-back.

SECTION 12-216

I DISTRICT (INDUSTRIAL AND MANUFACTURING).

1. GENERAL DESCRIPTION. This district is intended to provide regulations for the areas with light industrial usage. Particular attention should be given to integrating uses and design of buildings on the periphery of these districts with uses in adjacent districts. Enterprises operating in these district may require direct access to rail, air, or street transportation facilities.

2. USES PERMITTED. Property and buildings in an I District shall be used only for the following purposes:

- (a) Any use permitted in R-1, R-2, R-3, R-4, B, or A-1 Districts.
- (b) The manufacture, compounding, processing, packaging, or treatment of products from raw materials.
- (c) The manufacture, compounding, processing, packaging, or treatment of articles of merchandise from previously prepared materials.
- (d) Any other light industrial use, building, or structure which in the opinion of the Planning Commission, is of similar character and are not more objectionable due to noise, odor, dust, smoke, vibration, danger to life and property or other similar causes which are injurious to the health or safety of the neighborhood.

3. AREA REGULATIONS.

a. Front Yard.

- (1) The minimum setback line for the front yard is twenty-five (25) feet from the front lot line to the building line (steps and uncovered porches of less than ten (10) feet in width are excluded).
- (2) If twenty-five percent (25%) or more of the lots between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than five (5) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulations shall not require a front yard of greater depth than forty (40) feet.

b. Side Yard.

- (1) Every building shall be erected with a minimum of ten (10) feet side lot clearance on each side. Attached garages or accessory buildings connected with the main building by a breezeway or other permanently constructed connection shall be construed to be part of the main building for the purpose of this section. Structures abutting other property in R-1 or R-2 Districts shall have additional side set backs at the ratio of one additional foot for each additional foot of building height over thirty-five (35) feet.
 - (2) Accessory buildings may be located to the rear of the main buildings but may not be erected less than five (5) feet from a side lot line.
 - (3) On any corner lot a building shall be set back from the street line of the intersecting street a distance of fifteen (15) in case such lot is back to back with another corner lot, and twenty-five (25) feet in every other case.
- c. Rear Yard.
- (1) There shall be a minimum rear lot clearance at the rear of any building of at least five (5) feet from the rear lot line, which space shall remain open and unoccupied by any building or structure. Structures abutting other property in R-1 or R-2 Districts shall have additional rear set backs at the ratio of one additional foot for each additional foot of building height over thirty-five (35) feet.
- d. Minimum Lot Width.
- (1) No dwelling shall be erected on a lot having a frontage of less than seventy-five (75) feet on a public or private maintained road/street unless such lot was designated on a recorded plat or separately owned at the time this ordinance took effect and cannot practicably be enlarged to comply with this requirement. No minimum lot width shall be required in an I District for uses other than dwellings except such as is necessary to comply with the requirements for yard and lot areas or parking facilities.
- e. Minimum Lot Area Per Dwelling. On computing lot areas, an area not to exceed one-half of the width of the road or street right-of-way may be included if the lot owner holds title to the same.
- (1) The minimum lot area for a detached single or two family dwelling with municipal water and sewer services is 6,000 square feet unless such lot was designated on a recorded plat or separately owned before the effective date of this ordinance.
 - (2) The minimum lot area for a detached single or two family dwelling with individual water well and septic system is two and one-half (2½) acres of lot area unless such lot was designated on a recorded plat or separately owned before December 20, 1979.
 - (3) No living quarters over a business establishment, restaurant, lunchroom or garage shall accommodate more than one family for each twenty-five hundred (2500) square feet of lot area.

4. MINIMUM SIZE OF DWELLINGS.

Every dwelling or residence shall have a floor space designed and used for living quarters of not less than nine hundred (900) square feet per family unit, exclusive of basements, porches, garages, breezeways, terraces or attics. (This provision does not apply to manufactured housing which is covered under a separate section. See Part 5, Chapter 8).

5. MAXIMUM HEIGHT OF BUILDINGS.

In the I District there shall be no limit on height of structures, provided that any portion of a structure exceeding thirty-five (35) feet in height is set back from side and rear lot lines abutting other property in residential districts at least one foot for each additional foot of height in addition to the minimum set-back.

SECTION 12-217A-1 DISTRICT (AGRICULTURAL).

1. GENERAL DESCRIPTION. This district is intended to provide a zoning classification for the land situated on the fringe of the urban area that is used for agricultural purposes, but will be undergoing urbanization in the future. Most of these areas will be in close proximity to residential and commercial uses. Therefore, the agricultural activities conducted in this district should not be detrimental to urban land uses. It is not intended that this district provide a location for a lower standard of residential, commercial, or industrial development than is authorized in other districts. The types of uses, areas and intensity of use of land which is authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

2. USES PERMITTED. Property and buildings in an A-1 District shall be used only for the following purposes:

- (a) Any use permitted in R-1, R-2, R-3, R-4, B, or I Districts.
- (b) Agriculture, together with accessory buildings necessary in the operation thereof.
- (c) For the purposes of this ordinance, agriculture shall include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

3. AREA REGULATIONS.

(a) A-1 Districts shall contain at least ten (10) acres of land unless such land was designated on a recorded plat or separately owned prior to the effective date of this ordinance.

4. REGULATIONS FOR BUILDINGS.

(a) Front Setback.

- (1) The minimum setback line for the front is twenty-five (25) feet from the front lot line to the building line.

b. Side Setback.

- (1) The minimum side lot clearance on each side shall be twenty (20) feet.
- (2) On any corner lot a building shall be set back from the street line of the intersecting street a distance of twenty-five (25) feet.

c. Rear Setback.

- (1) The minimum back lot clearance shall be twenty (20) feet.

d. Minimum Lot Area Per Dwelling. On computing lot areas, an area not to exceed one-half of the width of the road or street right-of-way may be included if the lot owner holds title to the same.

- (1) The minimum lot area for a detached single or two family dwelling with municipal water and sewer services is 6,000 square feet unless such lot was designated on a recorded plat or separately owned before the effective date of this ordinance.
- (2) The minimum lot area for a detached single or two family dwelling with individual water well and septic system is two and one-half (2½) acres of lot area unless such lot was designated on a recorded plat or separately owned before December 20, 1979.
- (3) No living quarters over a business establishment, restaurant, lunchroom or garage shall accommodate more than one family for each twenty-five hundred (2500) square feet of lot area.

5. MINIMUM SIZE OF DWELLINGS.

Every dwelling or residence shall have a floor space designed and used for living quarters of not less than nine hundred (900) square feet per family unit exclusive of basements, porches, garages, breezeways, terraces or attics. (This provision does not apply to manufactured housing which is covered under a separate section. See Part 5, Chapter 8).

6. MAXIMUM HEIGHT OF BUILDINGS.

In the A-1 District there shall be no limit on height of structures, provided that any portion of a structure exceeding thirty-five (35) feet in height is set back from side and rear lot lines abutting other property in residential districts at least one foot in addition to the minimum set-back for each additional foot of height.

SECTION 12-218A-2 DISTRICT (AGRICULTURAL, RESTRICTED).

1. GENERAL DESCRIPTION. This district is intended to provide a zoning classification for land situated in areas where a higher usage is not warranted. Development of this land is not advisable due the potential for loss of life and property and the economic risk which could result to the community. Examples of areas within this district are high risk floodplain management areas.

2. USES PERMITTED. Property and buildings in an A-2 District shall be used only for the following purposes:

- (a) Agriculture, together with accessory buildings necessary in the operation thereof. No buildings for human habitation shall be allowed in A-2 districts.
- (b) For the purposes of this ordinance, agriculture shall include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

3. REGULATIONS FOR ACCESSORY BUILDINGS.

(a) Front Setback.

- (1) The minimum setback line for the front is twenty-five (25) feet from the front lot line to the building line.

b. Side Setback.

- (1) The minimum side lot clearance on each side shall be twenty (20) feet.
- (2) On any corner lot a building shall be set back from the street line of the intersecting street a distance of twenty-five (25) feet.

c. Rear Setback.

- (1) The minimum back lot clearance shall be twenty (20) feet.

ARTICLE C

ADDITIONAL DISTRICT REGULATIONS

SECTION 12-220

PROHIBITED USES.

1. The following uses shall be deemed to constitute a nuisance and shall not be permitted in any district within the town limits of the Town of Luther:

- (a) Metal powder works.
- (b) Chemical plant.
- (c) Crematory.
- (d) Distilling of bones, fat or glue; glue or gelatin manufacturing.
- (e) Dumping, storing, burying, reducing, disposing of or burning garbage, refuse, scrap metal, rubbish, offal, or dead animals, except such as a result from the normal use of premises, unless such dumping is done at a place provided by the Town Board for such specific purpose.
- (f) Junkyards, automobile graveyards, or places for the collection of scrap metal, paper, rags, glass or junk for salvage or storage purposes.
- (g) Outdoor theaters.

- (h) Slaughterhouses.
- (i) Bulk petroleum stations with tanks above ground.
- (j) Commercial feed pen for livestock.
- (k) Sewage lagoon.
- (l) Manufacturing or storage of explosives, gunpowder or fireworks.

SECTION 12-221NONCONFORMING USES.

1. A nonconforming use existing at the time this ordinance takes effect may be continued, except that if it is voluntarily discontinued for one (1) year or more, it shall then be deemed abandoned and any further use must be in conformity with the uses permitted in such district.
2. Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this ordinance, but not completed, may be completed and put to such nonconforming use, providing it is done within one (1) year after this ordinance takes effect.
3. Any building or structure, existing as a nonconforming use at the time this ordinance takes effect, which is destroyed by fire or the elements, may be reconstructed and restored providing the same is done within one (1) year from the date of destruction.
4. A building or structure devoted to a nonconforming use at the time this ordinance takes effect may not be altered or enlarged so as to extend such nonconforming use more than ten percent (10%) in area.
5. Whenever a nonconforming use has been changed to a restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted or nonconforming use.

ARTICLE D

MINIMUM PROPERTY STANDARDS

SECTION 12-230PARKING FACILITIES DESIGN RESTRICTIONS.

1. All dwellings and apartment houses shall provide driveways with tin horns or curb and gutter and paved parking space off the road or street and outside of the public right-of-way, together with means of ingress and egress thereto, for not less than two motor vehicles per dwelling unit or apartment. Not less than two hundred (200) square feet of area shall be deemed necessary for each such vehicle.
2. All uses within B or I Districts shall provide driveways with tin horns or curb and gutter and paved parking space off the road or street and outside of the public right-of-way together with means of ingress and egress thereto.

The duty to provide and maintain the off-street parking spaces herein required shall be the joint and several responsibility of the operator and owner of the use and the operator and owner of the land on which, or the structure or structures in which, is located the use or uses for which off-street parking space is required to be provided and maintained. Each parking space shall have minimum dimensions of eight and one-half (8½) feet by nineteen (19) feet plus adequate space for ingress and egress. No land shall be used or occupied, no structure shall be designed, erected, altered, used, or occupied, and no use shall be operated unless the off-street parking space herein is provided in at least the amount specified, and maintained in the manner herein set forth; provided, however, that where off-street parking space is not provided or maintained for land, structures, or uses actually used, occupied, and operated on the effective date of this ordinance it shall not be required under this ordinance.

- (a) Number of Off-Street Parking Spaces Required. Off-street parking spaces for motor vehicles shall be provided in at least the amount shown in the following list:

<u>USE</u>	<u>SPACES REQUIRED</u>
<u>RETAIL TRADE</u>	
Department & variety stores	1 per 200 sq. ft. CSA*
Food & drug stores	6 + 1 per 200 sq. ft. CSA
Furniture stores, motor vehicle sales	1 per 500 sq. ft. GFA**
Liquor stores	3 + 1 per 300 sq. ft. GFA
Night club or tavern	1 per 50 sq. ft. CSA
Radio & television sales and/or repair	1 per 200 sq. ft. CSA
Restaurants, drive-in & fast-food takeout	1 per 100 sq. ft. GFA
Restaurants (except above)	1 per 50 sq. ft. CSA
Shopping Centers	5.5 per 1,000 sq. ft. Gross Lease Area
Various speciality shops (gifts, etc.)	3 + 1 per 200 sq. ft. CSA
<u>SERVICES</u>	
Amusement establishments	1 per ea. 4 patrons (capacity)
Automobile service stations	2 per service bay and 1 each service vehicle and 1 each 2 employees
Banks or savings & loan companies	1 per 150 sq. ft. CSA and 1 per 2 employees
Barber shops	1.5 per chair and 1 per each 2 employees

<u>USE</u>	<u>SPACES REQUIRED</u>
<u>SERVICES</u>	
Beauty parlor	2 per operator station & 1 per each 2 employees
Bowling alleys	5 per lane and spaces required for any affiliated uses
Church	1 per 4 seats in sanctuary
Clubs or lodges (private, nonprofit)	1 per 50 sq. ft. of assembly area.
Funeral parlors or mortuaries	5 and 1 per 5 seats in largest chapel
Hospitals and Sanitariums	1 per 2 beds, 1 per hospital or staff doctor, and 1 for each employee on maximum shift
Medical or dental clinics or offices	3 per treatment room and 1 each doctor or dentist
Nursing, convalescent, or rest homes	1 per 4 beds and 1 per each employee on maximum shift
Offices, business or professional	1 per 300 sq. ft. GFA
Nursery school or day care center	1 per employee and adequate off-street area for pick-up and delivery
Elementary school	15 and 1 per employee and adequate off-street area for pick-up and delivery
Junior & Senior High Schools	1 per employee and 1 per 8 students
Self-service laundries, dry cleaning	.5 per machine
Theaters, auditoriums	1 per 4 seats

<u>USE</u>	<u>SPACES REQUIRED</u>
<u>MANUFACTURING, STORAGE, & WHOLESALE</u>	
Manufacturing	2 + 1 per 3 employees and 1 per company vehicle
Printing & publishing	1 per employee
Warehouse (mini-storage)	1 per 8 rental units
Warehousing (general)	10% GFA
Wholesale establishments	2 + 1 per employee and 1 per company vehicle

FOR USES NOT COVERED ABOVE, THE REQUIREMENTS LISTED BELOW ARE APPLICABLE:

<u>USE</u>	<u>SPACES REQUIRED</u>
Retail stores and service establishments	1 per 200 sq. ft. CSA
Other commercial and industrial	1 per maximum number of employees on premises at one time

* CSA is the total area available for regular customer service. Storage and kitchen areas and toilet facilities are not included.

**GFA is the Gross Floor Area

3. Other Factors Determining Off-Street Parking Requirements.

- a. Fractional Spaces: When determination of the number of spaces required by this ordinance results in a requirement of a fractional space, any fraction shall require one more space.
- b. Enlarged/Changed Use: From the effective date of this ordinance, if such land, structures, or uses are enlarged, expanded, or changed there shall be provided for the increment only of such land, structures, and uses enlarged, expanded or changed and maintained as herein required, at least the amount of off-street parking space that would be required hereunder if the increment were a separate land, structure, or use. However, where a lot with existing structure is cleared and a new structure is erected thereon, there shall be provided and maintained off-street parking space as required herein.
- c. Joint Use: When an off-street parking space is used jointly by two or more uses with different requirements, or two or more uses having the same requirement, an area shall be provided equal to the total of requirements of all the uses.

- d. Relation to Premises: 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 Planning Commission. Such parking space shall be deemed to be required parking associated with the permitted principal use and shall not thereafter be reduced or encroached upon in any manner.
- e. Provisions shall be made for additional off-street parking for vehicles delivering to, unloading, loading or taking away from the user goods, materials, supplies, or waste in connection with a business or use.

SECTION 12-231OUTDOOR ADVERTISING DESIGN RESTRICTIONS.

- 1. Outdoor Advertising. For the purposes of this ordinance, outdoor advertising shall be classified as a business use and shall be permitted in all B, I, A-1, and A-2 Districts, subject to the regulations below:
 - a. Signs not larger than three square feet in area are permitted in any district when the use of the sign is in direct relation to the use of the premises.
 - b. An outdoor advertising sign or billboard, other than those mentioned in paragraph (a) of this section, shall be deemed a structure and shall require a placement permit before being erected, construction or replace.
 - c. No outdoor advertising sign, except those mentioned in paragraph (a) of this section, shall be placed nearer any street or road than the minimum setback building line.
 - d. No outdoor advertising sign larger than three square feet in area shall be located within one hundred fifty (150) feet of any intersection unless affixed to a building and not extending beyond or above the same more than three feet.
 - e. Any illuminated sign shall be so shaded as not to interfere with the vision of persons on the highway or to annoy neighbors.

ARTICLE E

ADMINISTRATION

SECTION 12-240BUILDING PERMIT.

- 1. The Town Clerk/Treasurer shall keep records of all applications for building permits and the action taken thereon.
- 2. Building permits shall be applied for as provided for by ordinance. See Section 5-106.
- 3. In Districts A-1 and A-2, buildings and accessory buildings used for agricultural purposes and not human habitation shall not require a building permit, but may require an electrical inspection if electricity is connected.

SECTION 12-241USES PERMISSIBLE ON REVIEW.

1. The uses listed under the various districts herein as "Uses Permissible on Review" are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; however, the nature of such uses may make it desirable that they be permitted to locate therein. The following procedure is established in order to determine those situations and conditions under which "Uses Permissible on Review" may be integrated with other land uses located in the district. The Town Board may, after public notice and hearing by the Planning Commission, authorize "Uses Permissible on Review." Such authorization may be conditioned upon the applicant meeting certain requirements and/or conditions. The following procedure shall be followed:
 - a. An application for review shall be filed with the Town Clerk/Treasurer. Said application shall show:
 - (1) The names and address of all record property owners within a three hundred (300) foot radius of the exterior boundary of the subject property. Said list shall be current and certified by a registered professional engineer, a registered land surveyor, an attorney, or a bonded abstracter.
 - (2) The land area of the subject property computed and certified by a registered engineer, architect, or qualified surveyor.
 - (3) A plot plan of the subject property reflecting the proposed use, all proposed structures and improvements.
 - b. Notice of the public hearing shall be given at the applicant's expense. Written notice of the public hearing shall be mailed to all owners of record for the property within a three hundred (300) foot radius of the exterior boundary of the subject property. Said notice shall contain:
 - (1) Legal description of the property and the street address or approximate location in the Town of Luther.
 - (2) Description of the proposed use and any proposed structures or improvements.
 - (3) Date, time, and place of hearing.
 - c. The Planning Commission shall, after public hearing, transmit to the Town Board its report as to the effect of such proposed use upon the character of the neighborhood, traffic conditions, public utilities, and other matters pertaining to the public health, safety and general welfare, together with any requirements and/or conditions necessary to protect the public health, safety, and general welfare; and the recommendation of the Planning Commission concerning the uses thereon and their response to any neighborhood objections.

- d. "Uses Permissible on Review" shall be considered a privilege bestowed by the Town Board for a specific use at a specific location. "Uses Permissible on Review" may be granted by the Town Board for such period of time, with such requirements and/or conditions, as the Board deems appropriate. Such requirements and/or conditions shall be continually complied with by the applicant and his successors and assigns.
- e. If any applicant who is granted a "Use Permissible on Review" or his successor or assign violates any requirement or condition specified in the authorizing ordinance, said violation constitutes a violation of the Zoning Ordinance and subjects the violator to the fines and penalties contained therein. Further, such a violation constitutes grounds for the Town Board to revoke or amend, the previously authorized "Use Permissible on Review".

SECTION 12-242ZONING VARIANCES.

The Town Board shall have the power to authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions would result in an unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Town Board unless and until:

1. An applicant shall submit to the Planning Commission a written application indicating:
 - a. That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same district.
 - b. That the literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - c. That the special conditions and circumstances do not result from the actions of the applicant.
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No non-conforming use of neighboring lands, structures, or buildings in the same districts shall be considered grounds for the issuance of a variance.
2. The applicant shall submit with each application a list of names and addresses of all record property owners within a three hundred (300) foot radius of the exterior boundary of the subject property. Said list shall be current and certified by a professional engineer, and attorney, a registered surveyor, or a bonded abstracter.
3. Upon receipt of said written application, and list, notice of public hearing before the Planning Commission shall be given at the applicant's expense, in a newspaper of general circulation in the Town of Luther, not less than twenty (20) days before the hearing. In addition, notice of public hearing

shall be given by mailing written notice by the applicant to owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. Said notice shall contain:

- a. Legal description of the property and the street address or approximate location in the Town of Luther.
- b. Present zoning classification of the property and the nature of the variance requested.
- c. Date, time, and place of the hearing.

Said written notice shall be mailed not less than twenty (20) days before the hearing date.

4. The public hearing shall be held in accordance with the following provisions:
 - a. At said hearing, any party may appear in person or by agent or attorney.
 - b. The Planning Commission shall make a finding that the reason set forth in the application justifies the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, structure, or building.
 - c. The Planning Commission shall further make a finding that granting the variance will be in harmony with the purpose and intent of this ordinance, will not be injurious to the neighborhood, or will not be otherwise detrimental to the public welfare.
 - d. The Planning Commission shall, after public hearing, transmit to the Town Board its report and recommendation concerning the proposed variance and its response to any objections.
 - e. The Town Board in granting any variance, shall prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and shall be punishable under the penalty section of this ordinance.

SECTION 12-243BOARD OF ZONING APPEALS.

— Amended Ord 2019-01

The Town Board shall act as a Board of Zoning Appeals. The Planning Commission shall serve as an advisory body to, and at the pleasure of, the Board of Zoning Appeals.

The Board of Zoning Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning laws or this ordinance or any amendments thereto.

2. To authorize, on appeal, in specific cases, such variance from the terms of this zoning ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance or any amendments thereto will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above-mentioned powers, such board may in conformity with the provisions of law and this ordinance and amendments thereto, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this zoning ordinance. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the board may determine. All meetings of the Board of Zoning Appeals shall be open to the public. The board shall keep minutes of its proceedings showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Clerk/Treasurer and shall be a public record.

SECTION 12-244

AMENDMENTS.

The Town Board may, from time to time amend the regulations and districts herein established. A request for an amendment will not be granted unless and until:

1. An applicant shall submit to the Planning Commission in writing, a request for rezoning along with any applicable plats or maps.
2. The applicant shall submit with each application a list of names and addresses of all record property owners within a three hundred (300) foot radius of the exterior boundary of the subject property(s). Said list shall be current and certified by a professional engineer, and attorney, a registered surveyor, or a bonded abstracter.
3. Upon receipt of said written application, and list, notice of public hearing before the Planning Commission shall be given at the applicant's expense, in a newspaper of general circulation in the Town of Luther, not less than twenty (20) days before the hearing. In addition, notice of public hearing shall be given by mailing written notice by the applicant to owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property(s). Said notice shall contain:
 - a. Legal description of the property(s) and the street address or approximate location in the Town of Luther.
 - b. Present zoning classification of the property(s) and the proposed zoning change that is being requested.

- c. Date, time, and place of the hearing.

Said written notice shall be mailed not less than twenty (20) days before the hearing date.

4. The public hearing shall be held in accordance with the following provisions:
- At said hearing, any party may appear in person or by agent or attorney.
 - The Planning Commission shall make a finding of the accuracy of the proposed rezoning application.
 - The Planning Commission shall further make a finding that granting the proposed rezoning would be in harmony with the purpose and intent of this ordinance, would not be injurious to the neighborhood, or would not be otherwise detrimental to the public welfare.
 - The Planning Commission shall, after public hearing, transmit to the Town Board its report and recommendation concerning the proposed rezoning and its response to any objections or comments.

SECTION 12-245

ENFORCEMENT.

- It shall be unlawful to construct, reconstruct, enlarge, change, maintain or use any building or to use any land in violation of any regulation or any provision of this ordinance or amendment thereto. Any person, firm or corporation violating this ordinance or any regulation, provision or amendment thereto, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than One Hundred Dollars (\$100.00). Each an every day during which such illegal erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.
- In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of law or of this ordinance or any amendment thereto, the Town Board, the prosecuting attorney of the Town, the Town Building Inspector or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

SECTION 12-246

INTERPRETATION.

In interpretation and application, the provisions of this ordinance shall be held to the minimum requirements adopted for the promotion of public health, safety, morals, conformity, and general welfare.

Nothing herein shall repeal, abrogate, annul, or in any way impair or interfere with any provision of law or any rules or regulations, other zoning ordinances, adopted or issued pursuant to law relating to the construction and use of buildings or premises.

Where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards than are imposed or required by other provisions of law, rules, regulations, covenants or agreements, the provisions of this ordinance shall control, but nothing herein shall interfere with, abrogate or annul any easements, covenants, deed restrictions or agreements between parties which impose restrictions greater than those imposed by the ordinance.

SECTION 12-247SEVERABILITY.

Each section, subsection, provision, requirement, regulation or restriction established by this ordinance or any amendment thereto, is hereby declared to be independent, and the holding of any part to be unconstitutional, invalid or ineffective for any cause shall not affect nor render invalid the ordinance or amendments thereto as a whole or any other part thereof except the particular part so declared to be invalid.

SECTION 12-248CODIFICATION.SECTION 12-249DECLARATION OF EMERGENCY.

CHAPTER 3

SUBDIVISION REGULATIONS

Section 12-301 Subdivision regulations adopted.

SECTION 12-301 SUBDIVISION REGULATIONS ADOPTED.

There is hereby adopted and incorporated herein by reference the town's subdivision ordinance, Ordinance Number 88-4, as adopted April 12, 1988, and as may be amended from time to time. The town's subdivision ordinance is effective and fully applicable in the town as if set out at length herein. Any violation of the town's subdivision ordinance is punishable as provided in Section 1-108 of this code. (Ord. No. 79-4, 12/20/79; Ord. No. 88-3, 4/12/88)

Cross Reference: See also Part 5 of this code on building and construction regulations, mobile homes, housing code.

CHAPTER 3

SUBDIVISION REGULATIONS

SECTION:

12-300: Subdivision Regulations Adopted

Article A. General Provisions

12-301: Purpose

12-302: Authority

12-303: Application To Types Of Subdivisions

12-304: Definitions

Article B. Procedure For Subdivisions Generally

12-310: Plat Approval

12-311: Official Recording

12-312: Agenda

12-313: Filing Fee

12-314: Exemption

12-315: Fees For Changing Final Plat

12-316: Building Permits

Article C. Procedure; Preliminary Approval

12-320: General

12-321: Drafting

12-322: Department Action

12-323: Planning Commission Action

Article D. Procedure; Final Approval

12-330: General

12-331: Drafting

12-332: Accompanying Papers

12-333: Inspection Fees

12-334: Planning Commission Action

12-335: Town Trustee Action

12-336: Recording Plat

12-337: Time Of Approval Of Final Plat

Article E. Design Standards

- 12-340: General
- 12-341: Acre Subdivision
- 12-342: Flood Hazards And Topography
- 12-343: Relation Of Adjoining Street System
- 12-344: Streets, Alleys And Easements
- 12-345: Street Widths
- 12-346: Street Lengths, And Deflections
- 12-347: Alleys
- 12-348: Easements
- 12-349: Street Grades
- 12-350: Street Drainage And Flood Control
- 12-351: Block Requirements
- 12-352: Lot Requirements
- 12-353: Building Lines
- 12-354: Neighborhood Unit Development

Article F. Improvements

- 12-360: Plans And Bonds
- 12-361: Permanent Markers
- 12-362: Street Improvements
- 12-363: Sidewalk Improvements
- 12-364: Water Lines
- 12-365: Sewers
- 12-366: Septic Tanks
- 12-367: Storm Sewers
- 12-368: Trees
- 12-369: Easements Along Streams
- 12-370: Gas Lines

Article G. Variations, Amendment, Penalty

- 12-380: Variations And Exceptions
- 12-381: Administration And Amendment
- 12-382: Violation And Penalty

- 12-300: **SUBDIVISION REGULATIONS ADOPTED¹:** There is hereby adopted ordinance 88-4, which establishes the town's

1. See also part 5 of this code on building and construction regulations, mobile homes, residential code.

12-300

12-301

subdivision regulations. Any violation of the town's subdivision regulations is punishable as provided in section 1-108 of this code. (Ord. 79-4, 12-20-1979; amd. Ord. 88-4, 4-12-1988)

ARTICLE A. GENERAL PROVISIONS

12-301: **PURPOSE:** The subdivision of land is the first step in the process of urban development. The arrangement of land parcels in the community for residential, commercial, and industrial uses and for streets, alleys, schools, parks, and other public purposes, will determine to a large degree the conditions of health, safety, economy, and amenity that prevail in the urban area. The quality of these conditions is of public interest. These regulations and standards for the subdivision and improvement of land for urban use are to make provision for adequate light, air, open spaces, drainage, transportation, public utilities and other needs, to ensure the development and maintenance of a healthy, attractive, and efficient community that provides for the conservation and protection of its human and natural resources.

November 2010

Town of Luther

SECTION 12-304DEFINITIONS.

For the purposes of these regulations, certain terms used in this chapter are defined as follows:

1. "Alley means 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;
2. "Block" means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof;
3. "Building line or setback line" means a line or lines designating the area outside of which buildings may not be erected;
4. "Town" means Town of Luther, Oklahoma;
5. "Town board" means Luther Town Board;
6. "Easement" means a grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for specific purposes;
7. "Master plan" means the comprehensive development plan for the town which has been officially adopted to provide long-range development policies for the areas subject to urbanization in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, circulation and community facilities;
8. "Lot" means subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development;
9. "Lot, corner" means a lot located at the intersection of and abutting on two (2) or more streets;
10. "Lot, double frontage" means a lot which runs through a block from street to street and which has two (2) nonintersecting sides abutting on two (2) or more streets;
11. "Lot, reverse frontage" means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street;
12. "Planning commission" means the Luther Planning Commission;
13. "Plat, preliminary" means a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of the land;
14. "Plat, final" means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land;
15. "Street" means any public or private right-of-way which affords the primary means of access to abutting property;

16. "Street, collector" means a minor street which collects traffic from other minor streets and serves as the most direct route to a major street or a community facility;

17. "Street, cul-de-sac" means a minor street having one end open to vehicular traffic and having one closed end terminated by a turn around;

18. "Street, frontage or service" means a minor street auxiliary to and located on the side of a major street for service to abutting properties and adjacent areas and for control of access;

19. "Street, local" means a street whose primary purpose is to provide access to adjacent properties and which is designated so that its use by arterial traffic will be discouraged;

20. "Subdivider" means any person, firm, partnership, corporation, or other entity, acting as a unit, subdividing or proposing to subdivide land as herein defined;

21. "Subdivision" means the division or re-division of land into two (2) or more lots, tracts, sites or parcels for the purpose of transfer of ownership or for development, or the dedication or vacation of a public or private right-of-way or easement;

22. "Thoroughfare" means an arterial street which is designated on the major street plan or expressway plan.

ARTICLE B

PROCEDURE FOR SUBDIVISIONS GENERALLY

SECTION 12-310

PLAT APPROVAL.

For all cases of subdividing with the scope of these regulations, a plat of the land in questions shall be drawn and submitted to the planning commission and the town board for their approval or disapproval, as provided hereafter in these regulations.

SECTION 12-311

OFFICIAL RECORDING.

No plat or other land subdivision instrument shall be filed in the office of the county clerk until it shall have been approved by the planning commission and by the town board as hereinafter set forth. All final plats shall be filed within two (2) years of date of approval by the planning commission, and no lots shall be sold from any plat until recorded. Failure to record the plat within two (2) years of the date of planning commission or town board approval, whichever is the later, shall void all approvals thereto.

SECTION 12-312

AGENDA.

Each plat submitted for preliminary or final approval shall be placed on the agenda of the planning commission only after fulfilling the appropriate requirements of these regulations. However, a plat not meeting all of the

requirements may be submitted providing the subdivider presents with the plat a written request for specific exceptions and explains the reasons therefor.

SECTION 12-313 FILING FEE.

To defray partially the costs of notification and administration procedures there shall be paid to the town clerk at the time of submission of the preliminary plat a fee as set by the town board. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of the remaining area may be submitted at any time within five (5) years of the date of preliminary approval without payment of an additional filing fee by the subdivider, if the final plat for the additional areas conforms substantially with the approved preliminary plant.

SECTION 12-314 EXEMPTIONS.

Plats containing four (4) lots or fewer may be exempt from the provisions of all or part of procedural provisions contained in this article of these regulations upon written approval of the planning commission, but such exemption shall not change or diminish the requirements relating to design, improvement, or the other provisions of these regulations.

SECTION 12-315 FEES FOR CHANGING FINAL PLAT.

After any final plat has been approved by the town planning commission or the town trustees of the town and the subdivider desires to make any change thereto, he shall pay to the town a fee equal to fifty (50%) percent of the fee required upon the filing of the preliminary plant. However, a special consideration may be made by the board for minor or slight changes only.

SECTION 12-316 BUILDING PERMITS.

Building permits will be required within all subdivisions as provided for in Section 5, Building Regulations and Codes.

ARTICLE C

PROCEDURE-PRELIMINARY APPROVAL

SECTION 12-320 GENERAL.

The subdivider shall prepare a preliminary plat for the presentation to the town planning commission. It shall conform to the minimum requirements of the comprehensive plan for the town which shall have been previously ascertained by the subdivider. It shall be submitted in duplicate directly to the office of the town clerk not less than ten (10) days before the next planning commission meeting. Two (2) signed statements describing the proposed use of the land, the proposed improvements thereon, and the proposed restrictions on future construction and development shall be submitted with the preliminary plat. The preliminary plat shall be prepared and certified by a registered land surveyor of the state.

SECTION 12-321DRAFTING.

The preliminary plat shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall show:

1. Scale, north point, and date;
2. The proposed name of the subdivision;
3. The name and address of the owner of record of the subdivided land and the name and address of the registered land surveyor preparing the plat;
4. A key map showing the location of the proposed subdivision with reference to existing or proposed major streets and to government section lines;
5. The names with location of town limits, if falling within or immediately adjoining the tract;
6. The land contours with vertical intervals not greater than two (2) feet referenced to a United States Geological Survey or Coast and Geodetic bench mark or monument, with any Federally designated flood prone areas shown;
7. The locations of buildings, water, water course, and the location of dedicated streets at the point where they adjoin or are immediately adjacent, provided that actual measured distances shall not be required;
8. The length of the boundaries of the tract measured to the nearest foot and the proposed location and width of streets, alleys, easements and setback lines and the approximately lot dimensions;
9. The location, size, and type of sanitary and storm sewers, water mains, power and natural gas lines and other surface and subsurface structures and pipelines existing within or immediately adjacent to the proposed subdivision, and the location, layout, type, and proposed size of the following structures and utilities.
 - a. Water mains;
 - b. Sanitary sewer mains, sub-mains, and laterals;
 - c. Storm sewers, culverts and drainage structure; or
 - d. Street improvements;
10. Location of all drainage channels and subsurface drainage structures, and the proposed method of disposing of all run-off from the proposed subdivision and the location and size of all drainage easements relating thereto, whether they are located within or without the proposed plat.

SECTION 12-322DEPARTMENT ACTION.

The preliminary plat so submitted shall be routed to the chief of police, the fire chief, and the town engineer for checking and comments.

SECTION 12-323PLANNING COMMISSION ACTION.

The preliminary plat so submitted together with the recommendations of the police chief, the fire chief, and town engineer shall be submitted to the planning commission to be placed on their agenda. The planning commission shall approve, approve conditionally, or disapprove the plat within sixty (60) days of its presentation by the applicant. However, if in the opinion of the planning commission, additional information is needed, action upon the plat may be deferred until the subdivider or town official supplies to the planning commission the required information. If the preliminary plat be disapproved or approved conditionally, the reasons for such action shall be stated in writing, a copy of which shall be signed by the planning commission chairman, and shall be attached to one copy of the plat and submitted to the applicant. Unless stipulation for additional time is agreed to by the applicant, and no action be taken by the planning commission, the plat shall be deemed to have been approved. If the plat be conditionally approved, the planning commission may require submission of a revised preliminary plat. If the plat conforms to all the standards or if the applicant and planning commission agree upon any revision which shall be filed with the planning commission on a revised copy, the applicant may proceed with the staking of streets and roads and with preparation of the final plat.

ARTICLE D

PROCEDURE-FINAL APPROVAL

SECTION 12-330GENERAL.

The final plat must be prepared by a land surveyor, registered in the state, and approved by an engineer as to conformity with the accompanying papers as set forth in Section 12-332 of this code. The final plat shall be neatly drawn on tracing cloth and three (3) dark line prints thereof shall be submitted to the office of the town clerk not less than ten (10) days before final approval. At the same time, there shall be submitted three (3) sheets of the proposed specifications or restrictions in final form.

SECTION 12-331DRAFTING.

A. The final plat shall be drawn at a scale of not less than one hundred (100) feet to the inch from an accurate survey and on sheets whose dimensions are twenty-one (21) inch by thirty-six (36) inch between border lines. On the first sheet of every plat, there shall be a key map showing the location of the subdivision, reference to the government survey section lines, and major streets. If more than two (2) sheets are required for the plat, the key map shall show the number of the sheet for each area; a border of one inch surrounding the sheet shall be left at the top, bottom, and right hand side and a margin of three (3) inches on the left hand side for binding purposes.

B. In addition to the map specifications for the preliminary plat, the final plat shall show:

1. The location and description of all section corners and permanent survey monuments in or near the tract to at least one of which the subdivision shall be referenced;

2. The length of all required true bearings and angles dimensioned in degrees and minutes as hereafter specified;

3. The boundary lines of the land being subdivided fully dimensioned by lengths and bearings and the location of boundary lines of adjoining lands with adjacent subdivision identified by official names;

4. The lines of all proposed streets fully dimensioned by lengths and bearings or angles;

5. The lines of all proposed alleys, where the length or direction of an alley is not readily discernible from data available for lot and block lines, then the length or bearings shall be given;

6. The width and names where appropriate of all proposed streets and alleys and of all adjacent streets, alleys and easements, shall be properly located;

7. The lines of all proposed lots fully dimensioned by length and bearings or angles except that where a lot line meets a street line, at right angles, the angle or bearing value may be omitted;

8. The outline of any property which is offered for dedication for public use fully dimensioned by lengths and bearings, with the area marked "public";

9. The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block with areas to be excluded from platting marked "reserved" or "not a part or not platted";

10. The location of all building lines, setback lines and easements for public service or utilities with dimensions showing their locations;

11. The radii, arcs, points of tangency, points of intersection, and central angles of all curvilinear streets and radii of all property returns;

12. The proper acknowledgment of owners and the consent by the mortgagee to plat restrictions;

13. The following shall be made and shown on the cloth tracing:

- a. Owner's certificate and dedication duly signed and acknowledged;
- b. Land surveyors certificate of survey duly executed with the seal affixed, and approved by the engineer with his seal affixed;
- c. Certificate for release of mortgage for any portion dedicated to the public, duly signed and acknowledged;
- d. Treasurer's certificate;
- e. Reference to any separate instruments, including restrictive covenants filed in the office of the county clerk which directly affect the land being subdivided;
- f. Certificate of planning commission approval; and

- g. Certificate of town trustees acceptance of ways, easements and public land dedications, where applicable; and

14. A title which shall include:

- a. The names of the subdivision;
- b. The Town of Luther, County of Oklahoma, State of Oklahoma; and
- c. Location and description of the subdivision reference by section, range, and township.

SECTION 12-332

ACCOMPANYING PAPERS.

There shall be filed with the final plat, plans and specifications for the construction of all required water mains and laterals, sanitary sewer mains and laterals and storm sewers or drainage structures and as lines as required by the planning commission and the town trustees; the plans and specifications to be prepared by an registered engineer registered to do business in the state, and approved by the town engineer; and there shall be deposited therewith an inspection fee as hereinafter set forth. The planning commission may give its final approval to the final plat prior to the receipt of the plans and specifications, upon the developer or subdivider's entering into a written undertaking with the town in the following form:

"In consideration by the Town of Luther of the Town Planning and Zoning Commission approving the final plat of _____ an addition to Luther, Oklahoma, the undersigned subdivider hereby agrees with the town as follows:

1. To construct dedicated drainage structures as required by the town engineer;
2. To construct, erect, and install such water mains and laterals and sewer mains and laterals, and gas lines and such paved streets as are required by the town zoning commission and town trustees in a manner approved by the town engineer of the Town of Luther.
3. To supply to the Town of Luther a five (5) year maintenance policy on all streets with such surety and in such form as is approved by the Town of Luther to supply a two (2) year maintenance bond on all sewer, gas, and water mains, and to furnish to the town two (2) sets of "as built" plans of the improvement;
4. To furnish to the town one certified copy of the final plat; and
5. To pay to the town an inspection fee according to the scale provided by ordinance, to comply with such additional reasonable requirements for data or information relative to such subdivision as may be required by the town planning commission or the town engineer.

(Signature) Developer

Subscribed and Sworn before me this _____ day of _____, 19____.

Notary Public

My Commission Expires: _____ day of _____, 19____."

The final acceptance of the final plat and any dedication shall be withheld until the plans and specifications have been submitted and approved by the trustees of the town.

SECTION 12-333 INSPECTION FEES.

The subdivider shall pay an inspection fee based upon the town engineer's estimate of the cost of construction of all improvements to the subdivision to be dedicated for public use including streets, water, sanitary sewer and storm sewers and gas lines according to the scale as set by the town board, the payment to be made to the town prior to any work order being issued thereon, and shall cover the cost of the town for inspection of the improvements. Any and all costs of testing as set forth in the standard specifications shall be paid for by the subdivider or the contractor before the work receives final approval by the town.

SECTION 12-334 PLANNING COMMISSION ACTION.

A. The planning commission shall act upon the final plat within forty-five (45) days after it has been submitted for final approval. This approval shall be shown on the plat with the date of such approval and over the signature of the commission chairman. Unless stipulation for additional time is agreed to by the applicant and if no action be taken by the planning commission, the plat shall be deemed to have been approved. A certificate by the planning commission as to date of submission of plat for final approval and failure of planning commission to act thereon, with such time, shall be sufficient in lieu of written endorsement or approval above named.

B. If the final plat be disapproved, grounds for this refusal shall be stated in writing, a copy of which shall be transmitted with a copy of prints and tracings to the applicant.

SECTION 12-335 TOWN TRUSTEE ACTION.

Before recording of the final plat, it shall be submitted to the town trustees for their approval and acceptance of public use and dedication. This approval of the plat shall be shown over the signature of the mayor and attested to by the town clerk or his deputy. The disapproval of any plat or plan by the town trustees shall be deemed a refusal of the proposed dedication shown thereon. However, the mayor may withhold the signature as an indication of approval until plans and specifications for all improvements as herein set forth have been submitted and approved by the town trustees.

SECTION 12-336 RECORDING PLAT.

After a final approval of the plat and the affixing of all the signatures on the original tracing, the subdivider shall provide the planning commission with three (3) dark line prints thereof. One of these shall be retained in the permanent files of the planning commission, one shall be filed with the office of the town clerk, and one shall be filed with the office of town engineer. The applicant shall file the original tracing, one dark line print on cloth, and one contact reproducible cloth tracing or film with the county clerk. One set of specifications or subdivision restrictions with one reproducible cloth tracing of the plans for any improvements and marked "as built" shall be deposited by the subdivider in the office of the town clerk.

SECTION 12-337TIME OF APPROVAL OF FINAL PLAT.

The final plat of the proposed subdivision shall be submitted to the planning commission and town trustees for final approval within one year of the date on which the preliminary plan was approved. If not submitted for final approval within such time the preliminary plan shall be considered as having been disapproved unless the planning commission agrees to an extension of time. The final plat shall be filed in the office of the county clerk within one year after approval by the town trustees and planning commission, whichever is later, or if not filed within such time, the approval shall be considered as having been voided.

ARTICLE E

DESIGN STANDARDS

SECTION 12-340GENERAL.

All plats shall be prepared in conformance with the purpose and spirit of the standards in this article.

SECTION 12-341ACRE SUBDIVISION.

Whenever the area is divided into lots containing one or more acres and there is an indication that such lots will eventually be re-subdivided into smaller building plots consideration must be given to street and lot arrangements of the original subdivision so that additional minor streets can be opened to permit a logical arrangement of smaller lots.

SECTION 12-342FLOOD HAZARDS AND TOPOGRAPHY.

All natural drainage courses into which other drainage courses empty shall be left undisturbed and shall be provided with adequate dedicated right-of-ways. Street alignment should follow contour lines or be generally parallel to such drainage ways.

SECTION 12-343RELATION OF ADJOINING STREET SYSTEM.

The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets in adjoining areas, (or their proper projection where adjoining land is not subdivided), insofar as may be deemed necessary by the planning commission for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street width established herein. The street and alley arrangement must also be such as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Streets that are obviously in alignment with others already existing and named, shall bear the names of the existing streets, east and west streets shall be designated by number and north and south streets shall be designated by name.

SECTION 12-344STREETS, ALLEYS AND EASEMENTS.

Streets, alleys, and easements within the subdivision shall be arranged for the most advantageous development of the tract and in harmony with existing or potential development of adjoining tracts.

SECTION 12-345STREET WIDTHS.

There shall be provided right-of-ways as stated herein:

1. Primary thoroughfares one hundred (100) feet;
2. Secondary thoroughfares eighty (80) feet;
3. Collector streets sixty (60) feet; and
4. Local streets fifty (50) feet if permanent curb and gutter and street surface are to be immediately installed and sixty (60) feet in every other case.

SECTION 12-346STREET LENGTHS, AND DEFLECTIONS.

Requirements are as follows:

1. A cul-de-sac court or similar type street may be permitted where size, location or topography of the tract do not permit a normal street pattern. A cul-de-sac should be not more than five hundred (500) feet in length as measured from entrance to center of turnaround and if more than one hundred (100) feet in length shall be provided with a turnaround having a minimum radius of fifty (50) feet at the property line and forty (40) feet at the curb line; and

2. Where any street deflects an angle of ten (10°) degrees or more, a horizontal curve having a minimum radius of three hundred (300) feet for major streets and one hundred fifty (150) feet for minor streets shall be provided.

SECTION 12-347ALLEYS.

Alleys when provided at the rear of business lots shall be at least thirty (30) feet in width and when provided in residential blocks shall be at least twenty (20) feet in width. At the intersection of two (2) alleys, the corners of the abutting property shall be provided with a property line return of a radius of ten (10) feet. All business property shall be designed to provide off-street loading entrances.

SECTION 12-348EASEMENTS.

Where alleys are not provided, easements not less than seven and one-half (7½) feet wide shall be provided along each rear lot line, and along side lot lines where necessary for use by public and private utilities. Easements of greater width may be required along or cross lots where necessary for the extension of storm and sanitary sewer mains and other utilities and where both water and sewer lines are located at the same easement. Where necessary, aerial easements may be required for use by service utilities.

SECTION 12-349STREET GRADES.

All grades shall conform to the requirements of the town engineer with the following minimum standards observed:

1. Street grades for major streets shall not exceed five percent (5%);
2. Street grades for all other classes of streets shall not exceed eight percent (8%);

3. No street surface shall have a finish grade of less than thirty-five one hundredths (.35) of one percent (1%); and

4. When deemed necessary, the planning commission may permit a violation from these grades in order to adjust to topographical conditions.

SECTION 12-350 STREET DRAINAGE AND FLOOD CONTROL.

All subdivisions shall provide for adequate drainage of surface waters as follows:

1. All land developments shall be related to the surrounding drainage pattern with proper provisions made for proper drainage facilities;

2. Minimum runoff shall be determined by the rational method with approved rainfall intensity frequency data; and

3. If storm water is to be diverted from its natural course, the following requirements shall be made:

a. A sketch showing the existing water way and the location of the proposed drainage change; and

b. Profile of the existing water course.

SECTION 12-351 BLOCK REQUIREMENTS.

A. Blocks shall be of such size and such shape as to best utilize the tract subdivided and in conformity with the surrounding area and for the development and in correlation with private development in the area. Normally a block will not be longer than eight hundred (800) feet. However, blocks not to exceed thirteen hundred twenty (1320) feet may be permitted whenever it is determined by the planning commission that the movement of traffic is provided.

B. Business lots shall be of such depth and size to allow for off-street parking as required by the zoning ordinance. Proper access shall be provided for all lots abutting on platted streets. Where grade separation structures or similar traffic regulators are or may be needed, the block shall be so arranged to provide adequately for such streets or improvements.

SECTION 12-352 LOT REQUIREMENTS.

A. All side lines of lots shall be at right angles to straight street lines or radial to curve street lines. Double frontage lots should be void where possible.

B. For corner lots, a property return with a radius of twenty (20) feet may be required, provided however, if in the opinion of the planning commission there is an existing or potential future need, a major radius not to exceed forty (40) feet may be required. On lots reserved to business use a chord may be substituted for the circular arc.

C. The minimum lot width, area, and off-street parking requirements of the zoning ordinance shall be offset in the lot and block design. In no case shall the lot area per family be less than six thousand (6000) square feet for detached single family dwelling.

D. The minimum lot width at the street line shall be not less than thirty-five (35) feet and at the building line not less than seventy-five (75) feet.

E. A minimum of sixty (60) feet width shall be provided on all corner lots irrespective of whether they rear upon lots facing the side streets.

SECTION 12-353 BUILDING LINES.

Building lines shall be shown on all plats intended for residential use of any character as follows:

1. In residential districts a front yard setback line shall be provided on every lot. The depth of such front yard setback line shall be at least twenty-five (25) feet;

2. On any corner lot to be used for residential purposes, the setback line on the intersecting street shall be located not less than fifteen (15) feet from the right-of-way line, in case such lot is back-to-back with another lot, and twenty-five (25) feet in every other case; and

3. Restrictions shall be made, requiring that all buildings to be used for residential purposes be set back from side lot lines at least ten (10) feet on all interior side lot lines.

Restrictions requiring buildings to be set back to such building lines shall be shown either on the plat or shall be contained in a separate recorded instrument and referred to in the plat.

SECTION 12-354 NEIGHBORHOOD UNIT DEVELOPMENT.

Whenever a subdivision is developed as a neighborhood unit, wherein adequate park or playground area is provided, through traffic is adequately cared for, and the majority of the minor streets are of the cul-de-sac type, the planning commission may vary the requirements of this section in order to allow the subdivider more freedom in the arrangement of streets and lots, but at the same time protect the convenience, health, safety, and welfare of the probable future residents of the subdivision, as well as the character of the surrounding property and the general welfare of the entire community. In no case, however, shall the lot areas per family be less than forty-five hundred (4500) square feet for detached single family dwelling.

ARTICLE F

IMPROVEMENTS

SECTION 12-360PLANS AND BONDS.

A. Plans for the improvements herein required shall be prepared by the town engineering department or by a "qualified engineer registered and licensed in the state. Two (2) sets of prints on the "as built" plans and specifications for all improvements shall be filed with the town clerk. One set of "as built" plans and specifications certified and signed by a registered, licensed engineer shall be filed with the town engineer prior to the acceptance of the town of any improvements installed by the subdivider. These improvements shall be installed as listed below. In lieu of their completion, the town trustees shall require the subdivider to file a surety bond with the town clerk to secure to the town the actual construction of such improvements in a satisfactory manner, within a period not exceeding two (2) years. Such bond shall be in an amount of one hundred percent (100%) of the estimated cost of the improvement, as provided, however, that where all streets and utilities are installed according to the plans and specifications prior to the sale of any lots and/or issuance of any building permit for construction within the subdivision, no surety bond will be required. However, before the acceptance of the improvements by the town, the developer shall file with the town bond of corporate surety, licensed to do business in the state to be approved by the trustees guaranteeing the maintenance of all streets for a period of five (5) years and where applicable, all sewer and water lines and mains for a period of two (2) years.

B. Public utilities shall be designed in accordance with all elements of the comprehensive plan in order that they may be easily expanded or extended wherever necessary to serve an area beyond the limits of the proposed installation.

SECTION 12-361PERMANENT MARKERS.

Each block corner shall be marked with iron pipes or pins not less than one-half ($\frac{1}{2}$) inch in diameter and twenty-four (24) inches long at least one inch below finished grade; and each subdivision corner shall be marked with a permanent concrete marker capped with a non-corrosive metal plate, set not less than one inch below the finished grade. Each lot shall have its lot number or street address number posted where visible from the street.

SECTION 12-362STREET IMPROVEMENTS.

A. Street and alleys shall be laid out, graded and otherwise improved as designated on the approved final plat and as deemed necessary by the town trustees. Such street layout and all improvement shall be done under the supervision of the town engineer and shall be subject to his inspection and approval.

B. Roadway surfacing shall be in accordance with the standard specifications of the town as approved by the town trustees. The paving design of the intersection of any new street with a state or federal highway shall be approved by and be in conformance with the specifications of the State Transportation Department. Widths shall comply with standards established by the trustees.

C. No lots may be sold nor any building permits issued for the construction of any building within the subdivision until the street layout and improvement and culvert installation have been completed or a surety bond filed.

SECTION 12-363 SIDEWALK IMPROVEMENTS.

Sidewalks may be required along officially designated major streets. Sidewalks may be required along any minor streets where deemed essential for public convenience or safety by the planning commission. All required sidewalks shall be paved and shall be constructed in accordance with standards established by the town trustees.

SECTION 12-364 WATER LINES.

Where applicable, the subdivider shall provide water service throughout the tract as platted and made available to each lot within the area. Fire hydrants shall be provided by the subdivider in accordance with the requirements of the office of the town engineer and the town fire department.

SECTION 12-365 SEWERS.

Where a public sanitary sewer is reasonably accessible the subdivider shall connect with such sanitary sewer and shall provide adequate sewer lines accessible to each lot. Subdivision sewer systems shall comply with the regulations of the town trustees and shall be constructed under the supervision of the town engineer.

SECTION 12-366 SEPTIC TANKS.

A. In event the construction of sanitary sewers is not feasible in the opinion of the town engineer, the developer may install individual sewage disposal devices for each lot, but all such individual disposal systems shall be constructed in accordance with the regulations and requirements of the town and State Health Department and the town engineer, and under the supervision of the departments and shall be subject to the following provisions: on any lot where a septic tank is to be installed the lot shall be not less than two and one-half (2½) acres and shall comply with the following provisions:

1. No part of any septic tank or laterals shall be located closer than twenty (20) feet to the rear of the rear building line of the principal structure to be placed on the lot; and

2. Where a water well is to be placed on the same lot with a septic tank the lot area and spacing required for the water well shall be in accordance with the requirements of the State Health Department and the county health department.

B. One set of blue prints or blue line prints of the "as built" plans of all streets and utilities shall be filed with the town engineer.

SECTION 12-367 STORM SEWERS.

Adequate provisions shall be made for the disposal of storm water subject to the approval of the town trustees.

SECTION 12-368TREES.

The subdivider should plant trees in new residential subdivisions that are not located in wooded areas. Before the trees are planted, the subdivider should submit a plan of such planting to the planning commission for its study and recommendation in order to prevent the planting of certain species that would become nuisances either because of insects or disease or because they might unduly interfere with sewer mains or other utilities. It is recommended that the planting of trees in parkings be a minimum distance of four (4) feet from the curb and thirty (30) feet on center with each other.

SECTION 12-369EASEMENTS ALONG STREAMS.

Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall dedicate an adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream or for drainage, parkway or recreational use.

SECTION 12-370GAS LINES.

Where a public gas main is reasonably accessible, the subdivider shall connect with such gas line and shall provide adequate gas lines accessible to each lot. Subdivision gas systems shall comply with the regulations of the town trustees and shall be constructed under the supervision of the town engineer.

ARTICLE G

VARIATIONS, AMENDMENT, PENALTY

SECTION 12-380VARIATIONS AND EXCEPTIONS.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardship or inequity, the planning commission may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or improvements so that the subdivider may develop his property in a reasonable manner, but so, at the same time, the public welfare and interest of the town are protected and the general intent and spirit of these regulations preserved. Such modification may be granted upon written request of the subdivider, or his engineer, and stating the reasons for each modification and may be waived by three-fifth (3/5) vote of the regular membership of the planning commission.

SECTION 12-381ADMINISTRATION AND AMENDMENT.

The town trustees may, from time to time adopt, amend, and make public rules and regulations for the administration of these regulations to the end that the public be informed and that approval of plats be expedited. These regulations may be enlarged or amended by the town trustees after public hearing, due notice of which shall be given as required by law.

SECTION 12-382VIOLATION AND PENALTY.

No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure on any tract of land which itself does not comply with all the provisions of these regulations. Any person, firm or corporation who violates or refuses to comply with any of the provisions of this chapter shall be guilty of an offense, and upon conviction thereof shall be punished as provided in Section 1-108 of this code. Each day that a violation is permitted to exist shall be considered a separate offense.

CHAPTER 4

FLOOD DAMAGE PREVENTION

SECTION:

12-401:	Findings Of Fact
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12-418:	Standards For Subdivision Proposals
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12-401: FINDINGS OF FACT:

- A. The flood hazard areas of the town of Luther are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights

and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. (Ord. 2009-11-01, 11-30-2009)

12-402: **STATEMENT OF PURPOSE:** It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- G. Ensure that potential buyers are notified that property is in a flood area. (Ord. 2009-11-01, 11-30-2009)

12-403: **METHODS OF REDUCING FLOOD LOSSES:**

- A. In order to accomplish its purposes, this chapter uses the following methods:
 - 1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. 2009-11-01, 11-30-2009)

12-404: **DEFINITIONS:** Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application:

ACCESSORY STRUCTURE:	Structures which are on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure (such as garages and storage sheds).
APPEAL BOARD:	The planning commission of the town of Luther, or such other board of adjustment or appeals as the town may establish.
AREA OF SPECIAL FLOOD HAZARD:	The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as zone A on the flood insurance rate map (FIRM). After detailed ratemaking has been completed in preparation for publication of the FIRM for Luther, zone A is refined into zones A and AE.
BASE FLOOD:	The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION:	The elevation in feet above mean sea level of the base flood or one percent (1%) chance flood.
BASEMENT:	Any area of the building having its floor subgrade (below ground level) on all sides.
BOARD:	The Oklahoma water resources board.
CRITICAL FEATURE:	An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
DEVELOPMENT:	Any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
ELEVATED BUILDING:	A nonbasement building built, in the case of a building in zones A, AE and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of zones A, AE and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
EXISTING CONSTRUCTION:	For the purpose of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".
EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:	A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the

installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO
AN EXISTING
MANUFACTURED
HOME PARK OR
SUBDIVISION:

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD INSURANCE
RATE MAP (FIRM):

An official map of a community, on which the federal emergency management agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE
STUDY:

The official report provided by the federal emergency management agency. The report contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.

FLOOD OR
FLOODING:

A general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters.

B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PROTECTION
SYSTEM:

Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are

	those constructed in conformance with sound engineering standards.
FLOODPLAIN ADMINISTRATOR:	A person accredited by the board and designated by a board of trustees to administer and implement laws and regulations relating to the management of the floodplains.
FLOODPLAIN MANAGEMENT:	The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
FLOODPLAIN MANAGEMENT REGULATIONS:	Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
FLOODPLAIN OR FLOOD PRONE AREA:	Any land area susceptible to being inundated by water from any source. (See definition of Flood Or Flooding.)
FLOODPROOFING:	Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
FLOODWAY (REGULATORY FLOODWAY):	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
FUNCTIONALLY DEPENDENT USE:	A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are

necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long term storage or related manufacturing facilities.

**HIGHEST ADJACENT
GRADE:**

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC
STRUCTURE:**

Any structure that is:

A. Listed individually in the national register of historic places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the secretary of the interior; or

2. Directly by the secretary of the interior in states without approved programs.

LEVEE:

A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to

contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM:

A flood protection system, which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR:

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the national flood insurance program regulations.

MANUFACTURED HOME:

A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION:

A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MEAN SEA LEVEL:

For purposes of the national flood insurance program, the North American vertical datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

NEW CONSTRUCTION:

For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain

management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW
MANUFACTURED
HOME PARK OR
SUBDIVISION:**

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL
VEHICLE:**

A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**START OF
CONSTRUCTION:**

Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of

excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE:

A walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

**SUBSTANTIAL
DAMAGE:**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**SUBSTANTIAL
IMPROVEMENT:**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

B. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure".

VARIANCE:

A grant of relief to a person from the requirement of these regulations or this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by these regulations. (For full requirements see section 60.6 of the national flood insurance program regulations.)

VIOLATION:

The failure of a structure or other development to be fully compliant with this community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE
ELEVATION:**

The height, in relation to the North American vertical datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 2009-11-01, 11-30-2009)

12-405: **LANDS TO WHICH THIS CHAPTER APPLIES:** This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town of Luther, Oklahoma. (Ord. 2009-11-01, 11-30-2009)

12-406: **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL
FLOOD HAZARD:** The areas of special flood hazard identified by the federal emergency management agency in a scientific and engineering report entitled, "The Flood Insurance Study For Oklahoma County, Oklahoma And Incorporated Areas", dated December 18, 2009, with accompanying flood insurance rate maps (FIRM) are hereby adopted by reference and declared to be a part of this chapter. This chapter shall go

into effect on December 18, 2009, and not before. (Ord. 2009-11-01, 11-30-2009)

12-407: **ESTABLISHMENT OF DEVELOPMENT PERMIT:** A development permit shall be required to ensure conformance with the provisions of this chapter. (Ord. 2009-11-01, 11-30-2009)

12-408: **COMPLIANCE:** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations. (Ord. 2009-11-01, 11-30-2009)

12-409: **ABROGATION AND GREATER RESTRICTIONS:** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2009-11-01, 11-30-2009)

12-410: **INTERPRETATION:** In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2009-11-01, 11-30-2009)

12-411: **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that

result from reliance on these regulations or any administrative decision lawfully made hereunder. (Ord. 2009-11-01, 11-30-2009)

12-412: DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR:

The town of Luther board of trustees shall appoint a floodplain administrator, who will administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (national flood insurance program regulations) pertaining to floodplain management. (Ord. 2009-11-01, 11-30-2009)

12-413: DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR: Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.
- B. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- C. Review, approve or deny all applications for development permits required by adoption of these regulations.
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the federal water pollution control act amendments of 1972, 33 USC 1334) from which prior approval is required.
- E. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- F. Notify, in riverine situations, adjacent communities and the state coordinating agency, the Oklahoma water resources board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal emergency management agency.

- G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- H. Shall require the developer or permittee to provide the base flood elevation data when it has not been provided in accordance with section 12-406 of this chapter in order to administer the provisions of sections 12-416 through 12-420 of this chapter.
- I. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community.
- J. Under the provisions of 44 CFR chapter 1, section 65.12, of the national flood insurance program regulations, a community may approve certain development in zone AE on the community's FIRM which increases the water surface elevation of the base flood by more than one foot (1'), provided that the community first complies with 44 CFR, chapter 1, section 65.12.
- K. Become accredited by the board in accordance with 82 Oklahoma Statutes sections 1601 through 1618, as amended.
- L. After a disaster or other type of damage occurrence to structures in the town of Luther, Oklahoma, shall determine if the residential and nonresidential structures and manufactured homes have been substantially damaged and enforce the substantial improvement requirement. (Ord. 2009-11-01, 11-30-2009)

12-414: PERMIT PROCEDURES:

- A. Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 12-417B of this chapter;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 5. Maintain a record of all such information in accordance with subsection 12-413A of this chapter.
- B. Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of these regulations and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 3. The danger that materials may be swept onto other lands to the injury of others;
 4. The compatibility of the proposed use with existing and anticipated development;
 5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location, where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damage, for proposed use;

10. The relationship of the proposed use to the comprehensive plan for that area. (Ord. 2009-11-01, 11-30-2009)

12-415: **VARIANCE PROCEDURES:**

- A. Any request for a variance from this chapter shall be heard as any other request for a variance by the planning commission or board of adjustment as the town may establish.
- B. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- C. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the national register of historic places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this chapter.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 12-414B of this chapter have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting

of variances as it deems necessary to further the purpose and objectives of this chapter (section 12-402 of this chapter).

- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- J. Prerequisites for granting variances:
 - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 2. Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance 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 local laws or ordinances.
 - 3. A written notice will be provided to any person granted a variance to build a structure below the base flood elevation. This notice will inform the variance applicant that the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation.
- K. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - 1. The criteria outlined in subsections A through J of this section are met; and

2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- L. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of twenty five dollars (\$25.00).
- M. A copy of any variance issued shall be sent to the OWRB within fifteen (15) days of issuance. (Ord. 2009-11-01, 11-30-2009)

12-416: **PROVISIONS FOR FLOOD HAZARD REDUCTION; GENERAL STANDARDS:** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- G. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 2009-11-01, 11-30-2009)

12-417: **PROVISIONS FOR FLOOD HAZARD REDUCTION;
SPECIFIC STANDARDS:** In all areas of special flood hazards
the following provisions are required:

- A. **Residential Construction:** New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at a minimum of one foot (1') above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 12-414A1 of this chapter is satisfied.
- B. **Nonresidential Construction:** New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at a minimum of one foot (1') above the base flood level. The floodplain administrator shall maintain a record of all elevation certificates that includes the specific elevation (in relation to mean sea level) to which each structure has been elevated.
- C. **Enclosures:** New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - 2. The bottom of all openings shall be no higher than one foot (1') above grade.
 - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. **Manufactured Homes:**
 - 1. Require that all manufactured homes to be placed within zone A on the town of Luther's FIRM shall be installed using methods and

practices that minimize flood damage and have the bottom of the I-beam elevated at a minimum of one foot (1') above the base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces and a licensed installer shall install the home and place the required placard on the dwelling.

2. Require that manufactured homes that are placed or substantially improved within zone AE on the community's FIRM on sites: a) outside of a manufactured home park or subdivision, b) in a new manufactured home park or subdivision, c) in an expansion to an existing manufactured home park or subdivision, or d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the bottom of the I-beam of the manufactured home is elevated at least one foot (1') above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Also, a licensed installer shall install the home.

3. Require that manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zone AE on the community's FIRM that are not subject to the provisions of subsection D2 of this section be elevated so that the bottom of the I-beam of the manufactured home is at a minimum of one foot (1') above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; support the manufactured home chassis; and also be installed by a licensed installer that complies with state law.

E. Recreational Vehicles: Require that recreational vehicles placed on sites within zones A and AE on the community's FIRM either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days,

2. Be fully licensed and ready for highway use, or

3. Meet the permit requirements of subsection 12-414A of this chapter and the elevation and anchoring requirements for "manufac-

tured homes" in subsection D of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

F. Accessory Structure:

1. Structure is low valued and represents a minimal investment.
2. Structure shall be small and not exceed six hundred (600) square feet in size.
3. Structure shall be unfinished on the interior.
4. Structure can be used only for parking and limited storage.
5. Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
6. Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.
7. Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
8. Structure is designed to have low flood damage potential, i.e., constructed with flood resistant materials.
9. Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
10. Floodway requirements must be met in the construction of the structure.
11. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
12. Structure is to be located so as not to cause damage to adjacent and nearby structures. (Ord. 2009-11-01, 11-30-2009)

12-418: **STANDARDS FOR SUBDIVISION PROPOSALS:**

- A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 12-401, 12-402 and 12-403 of this chapter.

- B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of sections 12-407 and 12-414 of this chapter and the provisions of sections 12-416 through 12-420 of this chapter.
- C. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to section 12-406 or subsection 12-413H of this chapter.
- D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. 2009-11-01, 11-30-2009)

12-419: **FLOODWAYS:** Located within areas of special flood hazard established in section 12-406 of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 12-416 through 12-420 of this chapter.
- C. Under the provisions of 44 CFR chapter 1, section 65.12, of the national flood insurance regulations, a community may permit

encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community complies with all of 44 CFR chapter 1, section 65.12. (Ord. 2009-11-01, 11-30-2009)

12-420: **PENALTIES FOR NONCOMPLIANCE:** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be fined no more than five hundred dollars (\$500.00) for each offense plus court costs. Nothing herein contained shall prevent the town of Luther board of trustees or the town attorney from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 2009-11-01, 11-30-2009)