

SECOND AMENDING ORDINANCE OF ORDINANCE NO. 8

AN ORDINANCE AMENDING ORDINANCE NO. 8, DATED July 10, 1973, OF THE TOWN OF PINK OKLAHOMA; PROVIDING FOR THE REGULATION OF THE SUBDIVISION OF LAND, THE SUBMISSION OF PLATS TO, AND THEIR APPROVAL BY, THE BOARD OF TRUSTEES OF THE TOWN; DELINEATING A MINIMUM AREA FOR EACH LOT IN SAID SUBDIVISION; PROVIDING FOR THE REGULATION OF PERMITTED USES AND TEMPORARY DISCRETIONARY EXCEPTIONS; IN ADDITION TO THE REGULATION OF FIRE HYDRANT PLACEMENT WITHIN SUBDIVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

**Whereas**, the Board of Trustees have determined that an amendment to its Code of Ordinances must be made for the more efficient and practical operations for the Town of Pink; and accordingly,

**Whereas**, the Board of Trustees herein have determined that Ordinance No. 8, July 10, 1973 Sections 1 through 6 shall remain in place, un-amended, but recited and re-adopted herein for convenience and efficiency; and,

**Whereas**, the Board of Trustees herein have determined that the [First] Amending Ordinance of Ordinance No. 8, dated January 8, 2018, Sections 7, 8, 9, 10, 11, 12, shall be remain in place, un-amended, but recited and re-adopted herein for convenience and efficiency; and,

**Whereas**, the Board of Trustees herein have determined that Ordinance No. 8, July, 1973, and all its prior Amendments, shall be amended to add Sections 13 herein providing for the regulation of fire hydrant placement within new subdivision, with the recited language below; and,

**Whereas**, these Regulations provided for herein in this Ordinance are enacted in addition to, and amendment to, those set forth in Ordinance No. 8, dated 1973, and its subsequent, Amendments, of the Town of Pink, effective July 10, 1973. It is the intention of the Board that this Amending Ordinance be harmonized with original Ordinance No. 8, and its subsequent Amendments, and to the extent there exists a conflict, the latter shall apply.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PINK, POTTAWATOMIE COUNTY, STATE OF OKLAHOMA.**

**SECTION 1. EFFECTIVE DATE.** This ordinance shall become and be effective on and after July 10, 1973.

**SECTION 2. JURISDICTION.** These regulations shall apply to the following forms of subdividing and developing of land for residential purposes within the corporate limits of the Town of Pink:

- a. The dividing of land into two or more tracts, lots, sites, or parcels, any part of which when subdivided, shall contain 5.0 acres or less in area.

- b. The redividing of land previously divided or platted into tracts, lots, sites or parcels of 5.0 acres or less in area.

**SECTION 3. SUBDIVIDING DEFINITION.** The term “subdividing means the division of a parcel of land into two or more lots for the parcel of land into two or more lots for the purpose of transfer of ownership or development.

**SECTION 4. APPROVAL OF PLATS REQUIRED.** No land shall hereafter be subdivided within the Town of Pink until the plan or plans of such subdivision shall have been submitted to and approved by the Board of Trustees. Such approval must be in writing or stamped on such plan or plans.

**SECTION 5. COPIES REQUIRED AND NECESSITY OF APPROVAL.** Any person hereafter subdividing any piece or parcel of land, block, lot, or sub-lot, or any part thereof in the Town of Pink shall make a map or plat thereof, and before recording the same in the recorder’s office of the county, shall submit it with a duplicate thereof, to the Clerk of the Town of Pink for approval or rejection by the Board of Trustees. If approved, such approval shall be certified thereon, and signed by the Mayor, Board of Trustees, and attested by the Town Clerk; and no such map or plat shall be valid or entitled to record until it shall have been approved as aforesaid. No lot, tract or parcel of land within any subdivision shall be offered for sale nor shall any sale, contract for sale, or option be made or given until such subdivision has been formally approved.

**SECTION 6. BOARD OF TRUSTEES ACTION.** The Board of Trustees shall approve or disapprove the plat within forty-five (45) days of its presentation by the applicant. Unless stipulation for additional time is agreed to by the applicant and if no action be taken by the Board of Trustees, the plat shall be deemed to have been approved.

**SECTION 7. ROADS.** All roads within the subdivision shall be governed by provisions located elsewhere in the Town Code.

**SECTION 8. AREA REGULATIONS and USES PERMITTED**

**LOT SIZE LIMITS**

**8.1 Scope.** Lot sizes of less than TWO AND ONE HALF (2.5) acres created prior to July 10, 1973, are exempt from this provision.

**8.2 Minimum Lot Sizes.**

1. Lot Size. Subject only to the exceptions explicitly enumerated herein, no person shall construct, sell, lease, or rent a residential dwelling unit located on a building site encompassing less than Two and One Half (2.5) acres in area.
2. Definitions. For the purpose of this provision, the following terms are defined thusly:

- a. "Board of Trustees" means the Board of Trustees of the Town of Pink, Oklahoma.
- b. "Building Site" means any tract of land on which a residential dwelling unit is, or is to be, constructed, sold, leased, or rented.
- c. "Construct" means assemble or place upon a building site located in the Town for the purpose of creating or installing a residential dwelling unit.
- d. "Divided" means created, as a building site with a unique legal description, by an instrument. It shall be conclusively presumed that a building site is divided if the instrument was filed of record with the Clerk of Pottawatomie County, Oklahoma, and it will likewise be conclusively presumed that the date of the division occurred on the date the instrument was filed of record with the Clerk of Pottawatomie County, Oklahoma. The sufficiency of any other basis of proof for a division or the date thereof will be subject to the complete discretion of the Board of Trustees.
- e. "Eminent domain" means the inherent power of an entity to lawfully take private property for public use, subject to the limitations of the Fifth Amendment to the Constitution of the United States of America, the Oklahoma Constitution, and all applicable laws, statutes, and regulations.
- f. "Instrument" means a written deed, judgment, order, decree, plat, or conveyance.
- g. "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, covers 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and/or electrical systems contained thereon. The term includes manufactured homes transportable in one section and manufactured homes transportable in two or more sections. These terms shall not include any travel trailer, recreational vehicle, any self-propelled vehicle used as living quarters, or trailer or semitrailer used for the transportation of goods or property other than the personal belongings of the owner of the vehicle.
- h. "Mobile home" means a single family dwelling designed for transportation on streets and highways on its own wheels or on flatbed or other trailers, both highway and rail, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and similar operations.

- i. "Modular home" means a factory built home which is designed only for erection or installation on a site-built permanent foundation, does not have a chassis of any kind, whether temporary or permanent, and to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.
  - j. "Person" means any individual, person, organization, entity, and/or corporation.
  - k. "Previously Constructed Residential Dwelling Unit" means any residential dwelling unit that was constructed prior to July 10, 1973. The sufficiency of the evidence of the existence of a previously constructed residential dwelling unit and the cause of its destruction, demolition, or deconstruction will be subject to the complete discretion of the Board of Trustees.
  - l. "Previously Divided Building Site" means any building site which was divided by an instrument prior to July 10, 1973.
  - m. "Recreational vehicle" means a class D motor vehicle, provided such vehicle is a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping or travel purposes and is used solely as a family or personal conveyance.
  - n. "Residential Dwelling Unit" means any house, structure, edifice, dwelling, shelter, building, living quarters, modular home, manufactured home, or mobile home that contains living, sleeping, eating, cooking and/or sanitation facilities for one or more persons. The term "residential dwelling unit" shall not contemplate recreational vehicles or travel trailers.
  - o. "Town" means the Town of Pink, Oklahoma.
  - p. "Town Code" means the Code of the Town of Pink, Oklahoma.
  - q. "Travel trailer" means a vehicle or portable structure built on a chassis, designed as a temporary or permanent dwelling for travel, recreational and vacation use not included in the definition of mobile home or manufactured home.
3. Commercial and Industrial Limitations. This provision does not govern the ability of a person to establish a commercial or industrial property. Such instances are governed by provisions located elsewhere in the Town Code.

4. Exceptions. Any exceptions to this provision are strictly limited to the following:
- a. Previously Divided Building Site. One, and only one, residential dwelling unit may be constructed on each previously divided building site, even if such site comprises less than Two and One Half (2.5) acres in area.
  - b. Previously Constructed Residential Dwelling Unit. One, and only one, previously constructed residential dwelling unit may remain on a previously divided building site unless it otherwise violates any provision of this Town Code. If a previously constructed residential dwelling unit is destroyed, demolished, or deconstructed for any reason, one, and only one, residential dwelling unit may be constructed on its previously divided building site.
  - c. Eminent Domain. If a building site of Two and One Half (2.5) acres or more in area is reduced in area to a size of less than Two and One Half (2.5) acres as a result of the exercise of the power of eminent domain, the building site shall not be in violation of this provision strictly by virtue of its reduced size if the reduction in size is due solely to the exercise of eminent domain. Such a building site shall otherwise be required to conform to all other provisions of the Town Code.
  - d. DISCRETIONARY TEMPORARY EXCEPTIONS. The Board of Trustees is empowered to grant discretionary exceptions to this provision, but such relief shall be strictly limited to the following particulars and may be granted at the sole discretion of the Board of Trustees:
    - i. The Board of Trustees may allow relief to those residents of the Town who may suffer undue hardship as a result of this provision. Any relief granted shall be temporary in nature.
    - ii. It is the burden of the party requesting an exception to provide proof to the Board of Trustees of the undue hardship caused by this provision. The sufficiency of the proof shall be determined by the Board of Trustees and is subject to its complete discretion.
    - iii. No exception may be granted unless and until the person requesting such exception makes written application to the Board of Trustees at least fifteen (15) days prior to the scheduled monthly meeting at which the application is to be considered. Submission of the written application to the Town Clerk shall constitute submission to the Board of Trustees.
    - iv. The applicant must be present at the meeting at which the application is to be considered and shall be prepared to respond to any and all questions propounded by the Board of Trustees.

- v. In order to be considered, the application shall contain the following, to wit:
  - 1. the true and correct legal description of the building site affected by the request;
  - 2. the legal name and address of the owner(s) of the building site affected by the request;
  - 3. the legal name and address of the applicant(s); and
  - 4. a concise written statement identifying the necessity for the exception.
  
- vi. There shall be an application fee of \$25.00, of which \$10.00 is non-refundable. For renewal applications, there will be a renewal fee of \$10.00 to be submitted with the renewal application. There will be no refunds for denied renewal applications.
  
- vii. A building site for which an exception is granted shall be subject to unannounced inspections by the Board of Trustees or their designees. In the event there is a discrepancy between the actual use of the building site and the purpose stated in the written application for the exception, the exception shall be withdrawn at once.
  
- viii. Each discretionary temporary exception granted by the Board of Trustees may be renewed each year on the monthly Board of Trustees meeting that most closely coincides with the anniversary date. The applicant shall bear the responsibility for submitting the renewal application in a timely manner. The same requirements and procedures for original applications shall be used for renewals. The granting of an exception does not guarantee that a renewal will be granted. If the most recent annual renewal is granted by the Board of Trustees, the discretionary temporary exception or renewal thereof expires by operation of law one year from the date of the most recently granted discretionary temporary exception or renewal of a discretionary temporary exception.

- ix. **BONDS.** Applicants approved for a discretionary temporary exception shall obtain a surety bond, in an amount set by the Board, but not to exceed \$5,000.00, payable to the Town, executed by the applicant and a corporate surety authorized to do business with the State and conditioned that the applicant shall:

1. Pay the town, or reimburse the Town, for the incurred costs, including attorneys' fees, associated with the enforcement of this Ordinance, including the restoration of the subject property to a lawful state upon non-compliance and/or lapse of the temporary exception, and including, but not limited to, the physical removal of structure(s), fixtures, and improvements that have necessitated the cause for non-compliance falling under this Ordinance.

**AMENDATORY:** That Section 9 of Ordinance No. 8 of the Town of Pink, Oklahoma is hereby amended to read as follows:

**Section 9. FIRE HYDRANTS.** From the approval date of this Amending Ordinance, property located within the Town subdivided into more than four (4) lots, of less than ten (10) acres each, shall:

1. have one operational (1) fire hydrant installed at the entrance of such subdivision, and
2. one (1) installed fire hydrant for every one-quarter (1/4) mile of traveled road within the subdivision; or
3. If the traveled road within the subdivision is less than one-quarter (1/4) of a mile, then there shall be two (2) fire hydrants installed at evenly spaced intervals.
4. If unable to connect to the rural water system a water storage tank, with well, will be established. The Tank will be centered in the subdivision with enough road access for fire tank trucks to turn around or drive by. The Tank will have a minimum of 20,000 gallons volume of storage.

**AMENDATORY:** That Section 10 of Ordinance No. 8 of the Town of Pink, Oklahoma is hereby amended to read as follows:

**Section 10. PENALTY.** Upon a finding that the terms and provisions of this provision have been violated, the remedies available to the Board of Trustees shall include, but are not limited to, the assessment of a fine of up to Ten Thousand Dollars (\$10,000) and/or obtaining extraordinary and/or injunctive relief in State District Court.

**AMENDATORY:** That Section 11 of Ordinance No. 8 of the Town of Pink, Oklahoma is hereby amended to read as follows:

**SECTION 11. SEVERABILITY.** If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall for any reason be held invalid, the invalidity of such

section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the Board of the Town of Pink that this section of the ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**AMENDATORY:** That Section 12 of Ordinance No. 8 of the Town of Pink, Oklahoma is hereby amended to read as follows:

**SECTION 12. EMERGENCY.** It being immediately necessary for the preservation of the peace, health, safety and public good of the Town of Pink and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect, an emergency is hereby declared to exist, by reason whereof, this ordinance shall take effect and be in full force and effect after its passage, as provided by law.

**PASSED AND APPROVED** and the emergency clause voted on separately this 9 day of April, 2018.

Town of Pink, Oklahoma

Lisa Van Liew  
LISA VAN LIEW, MAYOR

ATTEST:

Carolyn Richards  
CAROLYN RICHARDS, CLERK/TREASURER

**EMERGENCY** separately approved this 9 day of April, 2018:

Lisa Van Liew  
LISA VAN LIEW, MAYOR

ATTEST:

Carolyn Richards  
CAROLYN RICHARDS, CLERK/TREASURER

APPROVED AS TO FORM AND LEGALITY THIS 9<sup>th</sup> day of April, 2018.

Tony Morales  
TONY MORALES  
STUART & CLOVER, PLLC  
TOWN ATTORNEYS