

ENROLLED SENATE
BILL NO. 279

By: Ford of the Senate

and

Vaughn of the House

An Act relating to cities and towns; defining terms; authorizing the municipal governing body to grant a specific use permit for use in a zoning district after certain procedures have been followed; requiring municipality to state list of uses; requiring certain entities to apply for a specific use permit; allowing municipalities to state requirements for types of uses; stating that a specific use designation shall not constitute an authorization or assurance that a use will be permitted; requiring regulations to specify certain information; stating specifications; requiring public hearing; providing for notification; stating conditions for denial or approval of permit; stating conditions under which the governing body shall act upon the specific use permit; establishing ordinances for specific use permit; setting certain standards for land use authorized in specific use permit; stating conditions which may be imposed with the approval of a specific use permit; providing record of conditions and changed conditions; defining term; stating procedures and requirements for site plans; requiring certain procedures and requirements be specified in zoning ordinance; requiring review and approval of site plan for specific use permit; requiring decisions on site plans be based on specific criteria; authorizing changes with certain notice; providing certain reasons to void permit; construing act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-113 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. As used in this act, "specific use permit" means a permit granted by a municipal governing body, after notice and a hearing and preliminary review and recommendation of a municipal planning commission, for a specific use within any zoning district. Municipalities may enact an ordinance provision for specific use permit. Any municipality enacting an ordinance providing for

specific use permits shall enumerate a list of uses which it has determined more intensely dominate the area in which they are to be located or their effects on the general public are broader in scope than other types of uses which are permitted in a zoning district. An entity with a use which is enumerated on the list may, by application for a specific use permit, locate in a zoning district for which such use would not normally be allowed or could be allowed, but due to its potential impact on surrounding properties, must secure a specific use permit.

B. The types of uses for which a specific use permit may be required shall be those types of uses which, because of the size of the land they require or the specialized nature of the use, may more intensely dominate the area in which they are located and their effects on the general public are broader in scope than other uses permitted in the district.

C. The designation of a specific use as possible on the specific use list shall not constitute an authorization or an assurance that such use will be permitted. Rather, each specific use permit application shall be viewed as to its probable effect on the adjacent properties and community welfare and may be approved or denied as the findings indicate appropriate.

D. In granting a specific use permit, the governing body of the municipality may require conditions related to the use of land, including, but not limited to, permitted uses, lot sizes, setback, height limits, required facilities, buffers, open space areas, lighting, signage, landscaping, parking and loading, compatibility, land use density and such other development standards and operational conditions and safeguards as are indicated to be important to the welfare and protection of adjacent property and the community as a whole. This may include having the property platted and/or the requirement of the dedication of sufficient right-of-way or easement as necessary to further the public good. Such conditions shall be determined in accordance with the regulations specified in the zoning ordinance. The conditions need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions have been followed in making regulatory decisions.

E. The specific use permit regulations established by a municipality shall specify the following:

1. The body which shall review and approve specific use permit requests and amend the same;

2. The conditions which create specific use permit eligibility, the persons and agencies involved in the review process, if any, and the requirements and standards upon which applications will be reviewed and approval granted; and

3. The procedures required for application, review and approval.

F. Following receipt of a request for a specific use permit, at least one public hearing shall be held. An ordinance may provide

for one or more preapplication conferences before submission of a request, and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given by mail in the same manner as required by Section 43-106 of Title 11 of the Oklahoma Statutes for public hearings on proposed zoning changes. Within a reasonable time following the public hearing, the body responsible for approving a specific use permit shall deny the request, approve the request, or approve the request with the following conditions:

1. The planning commission shall conduct a public hearing and make recommendations on the specific use permit request which shall be transmitted to the municipal governing body for consideration in making a final decision. If an amendment of a zoning ordinance is required by the specific use permit regulations of a municipal zoning ordinance, the requirements for amendment of a zoning ordinance shall be followed; and

2. If the specific use permit regulations of a municipal zoning ordinance do not require amendment of the ordinance with review and approval of specific use permits, the municipal governing body may approve, approve with conditions, or deny a request.

G. In establishing specific use permit ordinances, the municipal governing body may incorporate by reference other available and applicable ordinances or statutes which regulate land development.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-114 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. If a municipal zoning ordinance authorizes the consideration and approval of a specific use permit pursuant to the provisions of this act, the regulations and standards upon which those decisions are made shall be specified in the ordinance. The standards shall be consistent with, and promote the intent and purpose of the comprehensive plan and/or ordinances, and promote the land use or activity so as to be compatible with adjacent uses of land, the natural environment, and the planned capacities of public services and facilities affected by the land use. The standards shall also ensure that the land use or activity is consistent with the public health, safety, and welfare of the municipality.

B. Reasonable conditions may be required in conjunction with the approval of a specific use permit. Conditions imposed shall meet the following requirements:

1. Be designed to take into consideration natural environment, the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;

2. Be related to the valid exercise of the police power, and to the proposed use or activity;

3. Be necessary to meet the intent and purpose of the zoning requirements;

4. Be related to the standards established in the ordinance for the land use or activity under consideration; and

5. Be necessary to ensure compliance with those standards.

C. The conditions imposed with respect to the approval of a specific use permit shall be stated in the record of the approval actions, and shall not be changed or amended except as authorized by the zoning ordinance with notice as specified thereby. The approving body shall maintain a record of conditions which are changed.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-115 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "site plan" means the documents and plans specified in the zoning ordinance which are needed to ensure that a proposed land use or activity is in compliance with the ordinances and applicable state and federal regulations, if any.

B. The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission review and approval shall be required for specific use permits. Decisions denying, approving, or conditionally approving a site plan shall be based upon the approved specific use permit conditions and standards, and requirements contained in the zoning ordinance.

C. Changes to the approved site plan may be authorized by the zoning ordinance with notice as specified thereby.

D. The ordinance providing for specific use permits may provide that the permit shall become void if the use ceases for a specified period of time or if the use does not commence within a specified time after the granting of the specific use permit.

E. Nothing set out in this section or Sections 1 and 2 of this act shall invalidate a specific use permit approved by a municipality prior to the effective date of these sections whether named a specific use permit or conditional use permit or other term but having as its purpose the same or similar purpose herein provided and which provided notice and an opportunity for hearing prior to approval.

SECTION 4. This act shall become effective November 1, 2003.

Passed the Senate the 25th day of February, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of March, 2003.

Presiding Officer of the House
of Representatives