

ORDINANCE NO. 1352-2023

AN ORDINANCE OF THE CITY OF TAHLEQUAH, OKLAHOMA, AMENDING THE TAHLEQUAH CITY CODE, PART 12, PLANNING, ZONING AND DEVELOPMENT; CHAPTER 12, HOSPITALS AND HEALTHCARE FACILITIES, BY AMENDING SECTION 12-1203, HEALTHCARE FACILITIES; PROVIDING FOR CODIFICATION, SEVERABILITY, REPEALER, AND DECLARING AN EMERGENCY.

NOW THEREFORE, BE IT ORDAINED BY the City Council of the City of Tahlequah, Oklahoma:

SECTION 1. AMENDATORY. Section 12-1203 of the Tahlequah City Code is hereby amended to read as follows:

Section 12-1203 — Healthcare Facilities

- ~~A. Permit Required: No new healthcare facility shall be developed, either through construction, expansion, or conversion of existing space, or an existing noncity healthcare facility expanded, in the City of Tahlequah, Oklahoma, unless a permit therefor has been issued by the City Clerk.~~
- ~~B. Application: Before developing a facility for use as a licensed healthcare facility either fixed and/or mobile or expanding an existing noncity facility, the person proposing to operate the healthcare facility shall apply to the City Clerk for a permit for the facility in addition to any other required approvals. The application for permit shall be in such form as the City Clerk shall prescribe and shall include a demonstration of the healthcare facility's probable impact on the existing healthcare services in the City of Tahlequah including permitted facilities not yet completed.~~
- ~~C. Filing Fee: The application for permit shall be accompanied by a filing fee as set forth in Chapter 1-3, Fees. It is intended that the fee charged herein shall be used to cover the cost of the application administration and evaluation by the City staff. In addition, the remainder of the application fee shall be used to pay all costs for a feasibility study, to be conducted by a recognized healthcare industry consulting firm, demonstrating the existence of the matters herein, declared essential for determination by the City council, prior to the issuance of such a permit, as well as costs of publication and other matters required to be accomplished under this chapter. Any portion of the application fee not so expended shall be refunded to the applicant. If it is determined that costs of the feasibility study shall exceed the amount submitted with the application fee, the City Clerk or Mayor or his/her designee, shall notify the applicant, in writing. Said applicant shall submit the additional amount requested within 10 days or the application shall be stayed until such time as the remainder of the application fee is submitted to the City Clerk.~~
- ~~D. Available For Inspection: Within two working days after receipt of the application fee, the City Clerk shall provide the applicant with a notice of receipt and shall present to the Mayor or his/her designee, the application for permit. Within 10 days after receiving a completed application for permit, the Mayor or his/her designee shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital facility or facility expansion is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and~~

~~proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation how parties may file materials to be considered along with the application. The Mayor or his/her designee shall also request information on the firm.~~

~~E. Response To Application: Any person may submit written evidence and argument regarding the proposed hospital to the Mayor or his/her designee to be reviewed by City staff and the planning and zoning commission. Written materials shall be submitted to the Mayor or his/her designee within 30 days after publication of the paid notice, the Mayor or his/her designee shall immediately provide these materials to the applicant by certified mail or in person with the applicant signing a receipt. The applicant shall have 15 days after receipt of the materials to respond in writing to material timely filed by other persons. The planning and zoning commission shall be provided with all material included in the application process described herein and at a meeting to be held within 60 days of the completion of process. The application and feasibility study shall be examined by the planning and zoning commission, who shall make a recommendation to the City council.~~

~~F. Requirements For Approval: No permit to establish a healthcare facility or to expand an existing noncity facility shall be issued by the City Clerk unless, after reviewing the application, the feasibility study and timely filed written materials and responses, the Mayor or his/her designee shall provide to the City council the following findings made by the planning and zoning commissioners:~~

~~1. The proposed healthcare facility will contribute to the orderly development of hospital and healthcare services in the City of Tahlequah; and~~

~~2. The proposed healthcare facility will not cause an undue financial or staffing hardship on any existing provider of essential hospital or healthcare services in the City of Tahlequah including permitted facilities not yet completed, which hardship shall be deemed potentially capable of causing the existing facility to alter its services to such a degree that it will adversely impact the citizens of Tahlequah, Oklahoma; and~~

~~3. The proposed healthcare facility can be adequately served by the City's existing utility systems and/or infrastructure to include disposal of biochemical hazards; and~~

~~4. The proposed healthcare facility or expansion of such facility will not cause an increase in the cost of medical care, which would adversely, impact the citizens of the City of Tahlequah. The finding of the planning and zoning commission shall be summarized with appropriate documentation by the Mayor or his/her designee, with said findings to be provided to the City council for its consideration in determining the granting or denial of said permit.~~

~~G. Approval; Construction Schedule: The Mayor or his/her designee shall schedule the application for permit for consideration by the City council within 150 days after publication of the paid notice. A permit shall be effective for 36 months from the date of issue, during which time an applicant shall start construction or conversion work on the healthcare facility. At the time the building permit is issued, the applicant shall submit a construction schedule to the City. If construction or conversion work is not started within the time~~

~~required by this section, the permit shall be null and void. The City council in approving or denying the application will consider the recommendation of the planning and zoning commission, but only grant or deny the application subsequent to its consideration of those items addressed in Subsection F of this section.~~

~~H. Comply With Existing Requirements: In the event the City council approves the application for permit submitted by the prospective builders, it shall be understood that all existing requirements contained in this title, dealing with appropriate zoning and building standards, shall be complied with by the permit recipient.~~

~~I. Severability: If any section, subsection, sentence, clause, phrase, or portion of this chapter is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of this chapter.~~

~~J. Emergency Declared: That by reason of it being extremely advantageous for the protection of the health and safety of the citizens of the City of Tahlequah, that there be no decrease in the provision of medical services, or undue financial or staffing hardships imposed on any hospital or healthcare services in the City of Tahlequah and to be assured that any additional facilities can be adequately served by the City's existing utility systems and/or infrastructure, it is hereby deemed and declared necessary for the preservation for the public health, peace and safety that this chapter shall become operative immediately; wherefore an emergency is hereby declared to exist and this chapter shall be in full force and effective immediately from and after its passage and approval.~~

SECTION 2. CODIFICATION. The City Clerk is hereby directed to enter the added section into the appropriate place in the Tahlequah City Code of Tahlequah, Oklahoma, as authorized and approved by this Ordinance.

SECTION 3. SEVERABILITY. If any provision, paragraph, word, section of article of this Ordinance is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 4. REPEALER. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 5. EMERGENCY. It being immediately necessary for the preservation of the peace, health, safety and welfare of the City of Tahlequah, Oklahoma, and the inhabitants therefore, an emergency is hereby declared to exist and by reason whereof this Ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA,
THIS ____ DAY OF _____, 20____.

THE CITY OF TAHLEQUAH, OKLAHOMA

Sue Catron, Mayor

(SEAL)

ATTEST:

City Clerk

Approved as to form and legality this _____ day of _____, 20____.

John Tyler Hammons, City Attorney