



Operations Manual for Oklahoma Local Floodplain Boards

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Jim Coffey CFM

Operations Manual for Oklahoma Local Floodplain Boards

Edited by Jim Coffey

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PURPOSE OF MANUAL

The following manual will help Floodplain Management Boards understand their role and responsibility in managing development in the floodplain.

“Sound floodplain management practices keep people safe from harm and property safe from damage in flood events. It saves lives and reduces enormous expenditures by federal, state, and local governments to reimburse flood losses¹.”

¹ OWRB 12/2004 Floodplain Management Info Series Bulletin # 1

National Flood Insurance Program.....	11
instructions.....	143
SPECIAL FLOODPLAIN PROVISIONS.....	143
AUTHORIZATION	143

Appendix A: Resolution to Authorize Floodplain management and Appointment of Floodplain Board.

Appendix B: Duties of Floodplain Board

**Appendix C: Appointment of Floodplain Manager
Duties of Floodplain Manager**

Appendix D: Sample Ordinance for Levels “b”, “c”, & “d”

Appendix E: Resolution for adoption and approval of Ordinance with certification

Appendix F: Development Permit Form and Sample Permit

Appendix G: Certificate of Fill Placement

Appendix H: Variance Checklist

Appendix I: Sample Agenda

Appendix J: Sample Minutes

Appendix K: Sample Sign-In Sheet

Appendix L: Sample Staff Recommendation

Appendix M: Notice of Public Hearing

Appendix N: Open Meeting Act Requirements

Appendix O: Elevation Certificate

Appendix P: Oklahoma Floodplain Management Act

FEDERAL,
STATE, &
LOCAL
LEGISLATIVE
AUTHORITY

Section 1

NFIP LEGISLATIVE AUTHORITY

National Flood Insurance Program²

1.0 The National Flood Insurance Program (NFIP) was created by Congress in the 1968 National Flood Insurance Act. Through this Federal program, property owners in participating communities have access to federally subsidized flood insurance. **State and community floodplain management regulations that reduce future flood damages are required in exchange for this insurance. “If a community adopts and enforces a floodplain management ordinance to reduce future flood risk to new construction in floodplains, the Federal Government will make flood insurance available within the community as a financial protection against flood losses.”³**

1.1 The NFIP came about after many large losses to flood damage. Major flood disasters of the 1920’s and 1930’s led to consideration of Federal involvement in protecting life and property from flooding. Structural flood-control projects such as dams and levees were the main form of flood mitigation used as a result of the Flood Control Act of 1936. Even with the billions of dollars spent on such flood-control projects, the losses to life and property, as well as the financial assistance to victims continued to increase.

1.2 The idea of providing flood insurance first came about in the 1950’s, but it was soon apparent that private insurance companies could not profitably provide such coverage at an affordable price because of the catastrophic nature of flood damage. A decade later, in the 1960’s, steps were taken to redefine Federal policy.

1.3 In 1965, the Southeast Hurricane Disaster Relief Act was passed by Congress in response to Hurricane Betsy. This Act provided financial relief for flooding victims and authorized a feasibility study of a national flood insurance program. This feasibility study grew into House Document 465. The five major goals of House Document 465 are as follows:

- Improve basic knowledge about flood hazards.

² *National Flood Insurance Program; Program Description*, August 1, 2002 obtained at www.FEMA.gov pages 1-4.

³ NFIP Description, August 1, 2002 from www.fema.gov

NFIP
Histor

193

196

- Coordinate and plan new developments in the floodplain.
- Provide technical services.
- Move toward a practical national program of flood insurance.
- Adjust Federal flood control policy to sound criteria and changing needs.

1.4 House Document 465 led to the National Flood Insurance Act of 1968 in which the primary purposes are:

- Better indemnify individuals for flood losses through insurance.
- Reduce future flood damages through state and community floodplain management regulations.
- Reduce Federal expenditures for disaster assistance and flood control.

1.5 Section 1315 of the 1968 Act prohibits FEMA from providing flood insurance unless the community adopts and enforces floodplain management regulations that meet or exceed the floodplain management criteria established in accordance with Section 1361(c) of the Act. Community regulation is also required by 44 Code of Federal Regulations (CFR) Part 60.

1.6 The emphasis of NFIP is to reduce threats to lives and damages to property in flood-prone areas. According to FEMA as of August 1, 2002, over 19,700 communities presently participate in the NFIP. Not only does this program provide property owners with much needed flood insurance, it also identifies and maps the Nation's floodplains. Flood Insurance Rate Maps, usually called "FIRMs", depict flood prone areas in each community.

1.7 Tropical Storm Agnes in 1972 led Congress to pass the Flood Disaster Protection Act of 1973. This Act prohibits Federal agencies from providing financial assistance for acquisition or construction of buildings and certain disaster assistance in the floodplains in any community that did not participate in the NFIP by July 1, 1975, or within one year of being identified as flood-prone. It also required Federal agencies and federally insured or regulated lenders to require flood insurance on all grants and loans for acquisition or construction of building in designated Special Flood Hazard Areas (SFHA). A SFHA is an area with 1% chance of a flood in any given year – also known as a 100 year

floodplain. This Act resulted in a dramatic increase in the number of communities that joined the NFIP.

1.8 Congress amended the 1968 and 1973 Acts with the National Flood Insurance Reform Act (NFIRA) in 1994, which increased compliance by mortgage lenders with the mandatory purchase requirement and improved coverage. The amount of flood insurance coverage that can be purchased was also increased. Flood insurance could now be provided to communities for the cost of complying with floodplain management regulations by individual property owners.

1.9 Flood Mitigation Assistance grant program was established through the 1994 Act which assists States and communities to develop mitigation plans and implement measures to reduce future flood damages to structures. The Act put into motion the codification of the NFIP's Community Rating System and required FEMA to assess its flood hazard map inventory at least once every 5 years.

1.10 Funding for NFIP is through the National Flood Insurance Fund which was established in the Treasury by the 1968 Act. Premiums collected are deposited into the fund so that losses and operating/administrative costs can be paid out of the fund. The program has the authority to borrow additional funds as determined by the U. S. Congress from the U. S. Treasury.

1.11 There are three basic components of the NFIP:

- Identifying and mapping flood-prone communities
- Requirement that communities adopt and enforce floodplain management regulations
- Provision for flood insurance

1.12 For more information on the NFIP, visit www.fema.gov.

Section 2

FEDERAL LEGISLATION 44 CFR⁴

2.0 Title 44, Code of Federal Regulations (CFR) is titled Emergency Management Assistance. 44 CFR, especially Part 60, explains the Federal regulations on development in floodplains. Part 60 goes into detail on the minimum compliance with floodplain management criteria, lists these criteria, and explains variances and exceptions, and other issues regarding development in flood-prone areas. Part 59 of 44 CFR is another provision that is very useful for Floodplain Boards. This part is titled General Provisions and gives general definitions and more in depth information on the NFIP.

2.1 A good resource to view Title 44 CFR is at <http://ecfr.gpoaccess.gov>. The Title is very lengthy, so this site will allow you to search and find the specific section that can answer your question. Other pertinent parts of 44 CFR include part 9-Floodplain Management and Protection of Wetlands, part 63-Implementation of Section 1306© of the National Flood Insurance Act of 1968, part 66-Consultation with Local Officials, part 68-Administrative Hearing Procedures, and part 73-Implementation of Section 1316 of the National Flood Insurance Act of 1968.



⁴ Title 44 Code of Federal Regulations retrieved from <http://ecfr.gpoaccess.gov>.

Section 3

OKLAHOMA LEGISLATIVE AUTHORITY Oklahoma Floodplain Management Act⁵

(See Appendix “P” for a copy of act)

(Referred to in this manual as “the Act” or “State Statute”)

3.0 Floodplain Management Boards have been given the authority to regulate floodplain development from several state and federal statutes. Title 82, chapter 23 of the Oklahoma State Statutes 1980, Sections 1601 – 1618, as amended; the National Flood Insurance Program (NFIP) created by the National Flood Insurance Act of 1968; and 44 Code of Federal Regulations are the most pertinent to this manual.

3.1 Purpose of Act⁶

In 1980 the Oklahoma State Legislature passed The Oklahoma Floodplain Management Act. Essentially, this Act created a joint venture between state and local government to utilize floodplain management skills as a tool to reduce flood damages. Since then, the Act has been revised several times.

The State of Oklahoma recognizes the personal hardships and economic distress caused by flood disasters; in particular:

- Loss of life from floods
- Physical and emotional impact of flooding on individuals and communities,
- Public and private property damage and disruption
- Increased cost for disaster relief
- Need for preservation and restoration of the natural resources and functions of floodplains.

3.2 The Act also points out the economic impact of flood damage when it states that, “it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions.”⁷ **Flood Insurance is available only through the NFIP (National Flood Insurance Program) for those counties, cities, towns, and tribes that**

⁵ 82 O.S., 2001, §1601-1618, as amended. Effective May 13, 1980; revised/updated in 2001, 2002, and 2004

⁶ 82 O.S. §1602. Effective November 1, 2002

⁷ 82 O.S. §1602 (A)

participate in the federal program. Homeowner's policies do not cover loss or damage from water or floods.

3.3 The Act addresses the following criteria:

- To protect the natural and beneficial functions of the floodplain, to reduce damage and disruption to property from floods, to reduce costs of disaster relief and to reduce injury and loss of life from floods.
- To assist state agencies, local governments and the private sector in developing local floodplain management programs and in obtaining training and funding therefore.
- To procure flood insurance for those citizens that desire to participate in this federal program.

The Act was created for these purposes and Local Flood Boards are charged with the responsibility of guiding and enforcing regulations to assure the program accomplishes their purpose.

3.4 The act only applies to communities which joined the NFIP after May 13, 1980. However, for accreditation of floodplain administration, all NFIP communities are required to have a Local Floodplain Authority.

ORGANIZATION OF LOCAL FLOODPLAIN BOARDS

Section 4

ORGANIZATION OF LOCAL FLOODPLAIN BOARDS

4.0 Floodplain Boards and Administrators

Organization of Floodplain Boards⁸

Participation in the National Flood Insurance Program, creation of a Floodplain Board, and authorizing adoption of floodplain management regulations shall be done by a resolution adopted by the governing body, County, Municipality, City or Town. (See Appendix "A" for sample resolutions)

4.1 A **county** floodplain board shall be composed of five members to be appointed by the board of county commissioners. All members shall be residents of the county and shall own or operate real property within the unincorporated area of the county.

- *two members* appointed for terms of two years
- *two members* appointed for terms of four years
- *one member* appointed for a term of six years
- thereafter all appointments shall be made for six year terms
- all members shall serve without compensation
- members may be removed by the board of county commissioners for cause after a public hearing for that purpose
- vacancies shall be filled by additional appointments for the unexpired term only

4.2 A **municipal** floodplain board shall be composed of five members to be appointed by the municipal governing body. All members shall be residents of the municipality. Governing bodies that adopted and implemented floodplain regulations prior to the effective date of The Act (1980, as amended) may remain as currently constituted or may create new floodplain boards.

- If a floodplain board is created after Act: *two members* appointed for terms of two years
- *two members* appointed for terms of four years
- *one member* appointed for a term of six years
- thereafter all appointments shall be made for six year terms
- all members shall serve without compensation

⁸ 82 O.S. §1605. Effective November 1, 2002

- members may be removed by the municipal governing body for cause after a public hearing for that purpose
- vacancies shall be filled by additional appointments for the unexpired term only

4.3 The Board of Adjustment as a Floodplain Board. Using the Board of Adjustment as the Floodplain Board is discouraged for several reasons.

1. The legal notice time for a Floodplain Board and for the Board of Adjustment do not correlate as set forth in State Statue. (See State Statue 82 § 1610)
2. Actions of a Board of Adjustment require notification of 300 foot property owners by mail. No such requirement is listed in State Statue for Floodplain Boards. (See State Statue 82 § 1610)
3. State Statue governing Floodplain Boards instruct that all appeals should go to the Board of Adjustment if one exists, and Boards of Adjustment could not hear its own appeal. (See State Statue 82 §1616)

4.4 If the Board of Adjustment is used as a Floodplain Board then both the State Statues for Board of Adjustments and Floodplain Boards must be satisfied. The Governing Body should decide whether the Board of Adjustment should act as the Floodplain Board. The advice of the City Attorney should be sought.

Section 5

FLOODPLAIN BOARD LAND USE REGULATIONS

County and Municipal Floodplain Boards – land use rules and regulations⁹

- 5.0 To allow participation in the program, boards of county commissioners and municipal governing bodies are authorized to establish floodplain boards for their respective area of jurisdiction. The Floodplain Board is given the authority to adopt, administer and enforce regulations for the purpose of:
- Delineation of floodplains and floodways.
 - Preservation of the capacity of the floodplain to carry and discharge regional floods.
 - Minimization of flood hazards.
 - Establishment and charging of reasonable fees, not to exceed Five Hundred Dollars (\$500.00), for services provided by the Board, county commissioners and municipalities in the administration of their responsibilities pursuant to the Oklahoma Floodplain Management Act.
 - Regulation of the use of land in the floodplain.
 - Protection of the natural and beneficial functions of the floodplain, reducing damage to property from floods, reducing injury and loss of life from floods, and allowing communities to be eligible for flood insurance.
 - Hiring and employment of an accredited floodplain administrator.
- 5.1 The floodplain regulations shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning. The rules and regulations shall be approved by the county or municipality, as the case may be, by appropriate order, resolution or ordinance.
- 5.2 A Floodplain Board is responsible for managing the floodplain by administering and enforcing floodplain rules and regulations. (See Appendix “B” for Duties of Floodplain Board.)
- 5.3 A Floodplain Board may give the primary administrative responsibility for enforcement of Floodplain Regulations to a Floodplain Administrator. Appointing a Floodplain Administrator can be part of the Resolution of the Governing Body that creates the Floodplain Board or a separate resolution,

⁹ 82 O.S. §1604. Effective January 1, 2005

one for creating the Floodplain Board and one for Appointing the Floodplain Administrator (See Appendix "A" and "C" for Resolutions).

Section 6

ORDINANCES AND REGULATIONS

6.0 Floodplain Regulations – Requirements¹⁰

All Floodplain Boards must adopt floodplain regulations, which shall conform to the requirements necessary to establish eligibility and to maintain participation in the program and shall include the following:

- Regulations for any platting of land in floodplains, construction of dwelling units and commercial or industrial structures in floodplains, and all other construction in the floodplains, which may divert, retard or obstruct floodwater and threaten public health and safety or welfare.
- Regulations which establish minimum flood protection elevations and flood damage prevention requirements for use of structures and facilities which are located in a floodplain or are vulnerable to flood damage. Regulations adopted under this section are to be in accordance with any applicable state and local laws, regulations and ordinances.
- Regulations which provide for coordination by the floodplain board with all other interested and affected political subdivisions and state agencies. The regulations of a Floodplain Board shall not apply to the use of usual farm buildings for agricultural purposes, the planting of agricultural crops and the construction of farm ponds. However, the minimum NFIP Standards require all development proposed in a risk area be regulated.

6.1 Counties and municipalities that choose to participate in the program are encouraged to attend the floodplain development management classes offered by the Oklahoma Water Resources Board. State Statute Section 1620.1 requires Floodplain Administrators to be accredited by the Oklahoma Water Resource Board (OWRB) by meeting a certain education requirements. Accreditation should only be the first step for a Floodplain Manager. The next step that should be encouraged is to obtain certification as a CFM® (Certified Floodplain Manager) by attending continuing education classes. Floodplain management is technical and to adequately fulfill the management of the program, it is necessary that

¹⁰ 82 O.S. §1608. Effective November 1, 2002

members of Governing Bodies, Floodplain Boards, and Floodplain Administrators avail themselves of accreditation, certification, and continued education classes. It may be impractical for small communities with little or no Special Flood Hazard Areas to consider becoming a CFM®.

6.2 Adoption of Floodplain Regulations – Procedure¹¹

For State owned or operated property, floodplain regulations are adopted and promulgated by the OWRB in accordance with the Administrative Procedures Act.

For municipalities and counties, proposed new regulations or proposed amendments to existing regulations must be forwarded to the OWRB for review, comment, and evaluation. The OWRB will review the proposal to determine if it is compliant with the current NFIP Standards 44 CFR 59.1-60.3 (a), (b), (c), or (d), and the Oklahoma Floodplain Management Act. After review by OWRB the proposed new or amended floodplain regulation can be adopted by the Floodplain Board.

6.3 Floodplain regulations shall only be adopted by the county or Municipal Floodplain Boards after a public hearing at which parties in interest and other citizens have an opportunity to be heard. At least thirty (30) days prior to the hearing, a notice of the time and place of hearing shall be published in a newspaper of general circulation regularly published nearest the area of jurisdiction. (Refer to Appendix “M” & “N” for directions and information on Public Notices and Public Hearings)

6.4 At least thirty (30) days prior to the date of any hearing written notice shall be furnished to the OWRB, accompanied by a copy of each proposed rule to be acted upon. After a floodplain regulation (new or amended) is adopted, a copy of the regulation shall be filed with OWRB within fifteen (15) days after its adoption.

¹¹ 82 O.S. §1610. Effective November 1, 2002

Section 7

PUTTING THE REGULATION OR ORDINANCE TOGETHER

7.0 Flood Management Regulation

Participation in the National Flood Insurance Program to provide flood insurance for your county or municipality is governed by State Statute 82§ 1601-1618, as amended, which authorizes the County Commissioners and municipal governing bodies to establish Floodplain Boards for their respective areas of jurisdiction. The Floodplain Boards may then adopt, administer, and enforce floodplain management rules and regulations.

7.1 Floodplain regulations must be based on adequate technical data, competent engineering, and be consistent with regional comprehensive planning. Floodplain regulations require the review and approval of the county or the municipality as the case may be, by appropriate order, resolution, or ordinance. The Community Floodplain Management Regulation Review Checklist helps to determine the level of floodplain regulation needed for each community. The Checklist is completed by OWRB. Contact should be made with OWRB and review requested. Appendix "D" has a sample flood regulations for each level of community participation in accordance with 44 CFR Section 60.3 (a), (b), (c), and (d). Also see Section 9 Tools in this Manual, 9.1 Flood Ordinance.

7.2 Development in the Floodplain (State Statute 82 § 1612 -1613)

- A. After floodplain regulations, including the designation of floodplains, and assignment of flood elevations within the jurisdiction, are in place and submitted to the OWRB, the platting of land, the construction of residential units, commercial structures, industrial structures, and all future development in the area is prohibited unless:
1. A Special Permit is granted by the floodplain board (see Appendix "F")
 2. The development existed prior to the adoption of regulations.
 3. The construction permit was granted by the State Floodplain Board on lands owned or held in trust by the State of Oklahoma.
 4. The floodplain board issues a special permit having determined the construction or development in the floodplain in question is not a danger to person or property

5. The use existed prior to May 13, 1980, in which case, the use may continue. However, unless brought into compliance with the minimum standards set forth in adopted floodplain regulations, such use may not be substantially altered, enlarged or added to.

7.3 Obstructions, filling, excavations, and other uses. (State Statute 82§ 1317)

No new structure, fill, excavation or other floodplain use that is unreasonably Hazardous to the public or that unduly restricts the capacity of the floodway to carry and discharge the regional flood shall be permitted without securing written authorization from the floodplain board.

- 7.4 In view of the technical complexity of the hydrology of floodplains no filling, excavation, and other uses should be considered without an Engineering Report approved by a Registered Professional Engineer that outlines the affect of the action requested to be taken within a regulatory floodplain. (See example in Appendix "G" Certificate of Fill Placement)

7.5 Variances (State Statutes 82 § 1615)

The Floodplain Board may grant variances for uses which do not satisfy the requirements of adopted regulations upon presentation of adequate proof that compliance with the floodplain regulation will result in arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people. However, State law prohibits the granting of a variance where the effect of the variance will be to allow the continuance of a condition which unreasonably creates a flooding hazard. Furthermore, State law expressly states that the issuance of a variance does not relieve any person who receives it from any liabilities imposed by the Oklahoma Floodplain Management Act or the laws of the State of Oklahoma.

- 7.6 Any person seeking a variance must file a petition with the Floodplain Board, accompanied by a filing fee of Twenty Five Dollars (\$25.00). The Floodplain Board shall conduct a public hearing before considering the variance request. A notice of public hearing shall be published in a newspaper of general circulation regularly published nearest the area of jurisdiction thirty (30) days prior to the hearing listing the item to be considered and the time and place of the public meeting. Also, a copy of the petition for variance, and the notice of the time and place of public hearing should be sent to OWRB at least thirty (30) days prior to the public hearing.
- 7.7 Interested parties must be allowed to express their support or concern at the public hearing.
- 7.8 No variance shall be effective for a period longer than twenty (20) years.

A copy of the variance issued shall be sent to the Oklahoma Water Resources Board within fifteen (15) days of issuance. (See Appendix "H" for Variance Checklist)

7.9 Appeals (State Statute 82§ 1616)

Appeals of the decision of a County or Municipal Floodplain Board shall be taken to the Board of Adjustment for the area of jurisdiction involved in the appeal or to the governing body of the county or municipality where no Board of Adjustment exists.

7.10 Appeals may be taken by any person aggrieved or by a public officer, department, board or bureau affected by any decision of the Floodplain Board in administering the Floodplain Board's regulations.

7.11 Appeals must be made within a period of not more than ten (10) days, by filing a written notice with the appellant body and the Floodplain Board, stating the grounds for the appeal.

7.12 An appeal shall stay all proceedings in furtherance of the action unless the Floodplain Board from which the appeal is taken shall certify to the appellant of body that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property.

7.13 The Board of Adjustment or the governing body of the County or Municipality where no Board Of Adjustment exists shall have the following powers and duties in hearing the appeal:

1. To hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision or determination made by the Floodplain Board in the enforcement of the Floodplain Board's regulations.
2. The appellant body may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Floodplain Board for which the appeal is taken.
3. In acting upon any appeal, the appellant body shall apply the principles, standards and objectives set forth and contained in all applicable regulations and plans adopted.

7.14 Records and Minutes

All proceedings of every Floodplain Board must be adequately prepared, approved by the members, and kept on file permanently.

Records, including permits, public notices, and other papers must be kept in an orderly fashion to document the actions of the Floodplain Board.

A depository for minutes, and other records, including permits, public notices, and other papers should be designated, and all records should be kept in one place in an orderly fashion for future reference. (Also see

Section 8.1.2 of this Manual quoting from Section 312 of the State of Oklahoma Open Meetings Act and Section 8.3.7 of this Manual)

Section 8

MEETINGS

8.0 Information on conducting a meeting.

The following information is provided to help Floodplain Boards run their meetings. Text of the Oklahoma Open Meetings act is included in part verbatim as well as excerpts from Roberts Rules of Order.

Open Meetings Act¹²

§ 301. **Citation.** — This act shall be known as the Oklahoma Open Meeting Act.

§ 302. **Public policy.** — It is the public policy of the State of Oklahoma to encourage and facilitate an informed citizenry's understanding of the governmental processes and governmental problems.

§ 303. **Times and places — Advance notice.** — All meetings of public bodies, as defined hereinafter, shall be held at specified times and places which are convenient to the public and shall be open to the public....subject matter or matters to be considered at such meeting..... shall be hereafter provided..... An Agenda should be provided outlining the date, time and place of the meeting. The Agenda should outline the items to be discussed and a provision for new and old business. The Agenda shall be published in accordance to the Oklahoma Open Meetings Act.

§ 304. **Definitions.** —

As used in the Oklahoma Open Meeting Act:

1. **"Public body"** means the governing bodies of all municipalities located within the State of Oklahoma, boards of county commissioners of the counties in the State of Oklahoma, boards of public and higher education in the State of Oklahoma and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups in the State of Oklahoma supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body.
2. **"Meeting"** means the conduct of business of a public body by a majority of its members being personally together or, as authorized by Section 307.1 of this title, together pursuant to a teleconference;
3. **"Regularly scheduled meeting"** means a meeting at which the regular business of the public body is conducted;

¹² 25 O.S. §301-314

4. **“Special meeting”** means any meeting of a public body other than a regularly scheduled meeting or emergency meeting;

5. **“Emergency meeting”** means any meeting called for the purpose of dealing with an emergency. For purposes of this act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss;

6. **“Continued or reconvened meeting”** means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of this act, only matters on the agenda of the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting; and

§ 305. Recording of votes. — In all meetings of public bodies, the vote of each member must be publicly cast and recorded.

§ 306. Circumvention of act — No informal gatherings or any electronic or telephonic communications among a majority of the members of a public body shall be used to decide any action or to take any vote on any matter.

§ 307. Executive sessions.

A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;
2. Discussing negotiations concerning employees and representatives of employee groups;
3. Discussing the purchase or appraisal of real property;
4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
5. Discussing matters involving a specific handicapped child;
6. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law; or

7. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.

C. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;
2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and
3. Any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions; and
2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public.

§ 311. Public bodies — Notice.

A. Notwithstanding any other provisions of law, all regularly scheduled, continued or reconvened, special or emergency meetings of public bodies shall be preceded by public notice as follows:

1. **All public bodies** shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year.
2. All **county** public bodies, including, but not limited to, public trusts and any other bodies with the county as beneficiary, shall give such notice to the county clerk of the county wherein they are principally located.
3. All **municipal** public bodies, including, but not limited to, public trusts and any other bodies with the municipality as beneficiary, shall give such notice to the municipal clerk of the municipality wherein they are principally located.

4. All multi-county, regional, area wide or district public bodies, including, but not limited to, district boards of education, shall give such notice to the county clerk of the county wherein they are principally located, or if no office exists, to the county clerk of the county or counties served by such public body.

5. The Secretary of State and each county clerk or municipal clerk shall keep a record of all notices received in a register open to the public for inspection during regular office hours, and, in addition, shall make known upon any request of any person the contents of said register.

6. If any change is to be made of the date, time or place of regularly scheduled meetings of public bodies, then notice in writing shall be given to thecounty clerk or municipal clerk, as required herein, not less than ten (10) days prior to the implementation of any such change.

7. In addition to the advance public notice in writing required to be filed for regularly scheduled meetings, all public bodies shall, **at least twenty-four (24) hours prior to such meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting**, such twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma; provided, however, the posting of an agenda shall not preclude a public body from considering at its regularly scheduled meeting any new business. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. "New business," as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.

8. In the event any meeting is to be continued or reconvened, public notice of such action, including date, time and place of the continued meeting, shall be given by announcement at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

9. Special meetings of public bodies shall not be held without public notice being given at least forty-eight (48) hours prior to said meetings. Such public notice of date, time and place shall be given in writing to the county clerk or to the municipal clerk by public bodies in the manner set forth in paragraphs 3, 4, and 5 of this section. The public body also shall cause written notice of the date, time and place of the meeting to be mailed or delivered to each person, newspaper, wire service, radio station, and television station that has filed a written request for notice of meetings of the public body with the clerk or secretary of the

public body or with some other person designated by the public body. Such written notice shall be mailed or delivered at least forty-eight (48) hours prior to the special meeting. The public body may charge a fee of up to Eighteen Dollars (\$18.00) per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually. In addition, all public bodies shall, at least twenty-four (24) hours prior to such special meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting. **Only matters appearing on the posted agenda may be considered at said special meeting.** Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. Twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

10. In the event of an emergency, **an emergency meeting of a public body** may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, in person or by telephonic or electronic means.

B. 1. All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting, including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.

2. If a public body proposes to conduct an executive session, the agenda shall:

- a.** contain sufficient information for the public to ascertain that an executive session will be proposed;
- b.** identify the items of business and purposes of the executive session; and
- c.** state specifically the provision of Section 307 of this title authorizing the executive session.

(See Appendix "I" for Sample Agenda)

§ 312. Minutes of meetings — Recording of Proceedings.

A. The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body. The minutes of each meeting shall be open to public inspection and shall reflect the manner and time of notice required by this act.

B. In the written minutes of an emergency meeting, the nature of the emergency and the proceedings occurring at such meeting, including reasons for declaring such emergency meeting, shall be included.

C. Any person attending a public meeting may record the proceedings of said meeting by videotape, audiotape, or by any other method; provided, however, such recording shall not interfere with the conduct of the meeting. See Appendix "J" for Sample Minutes Outline)

§ 313. Actions taken in willful violation of act. — Any action taken in willful violation of this act shall be invalid.

§ 314. Violations — Misdemeanor — Penalty. — Any person or persons willfully violating any of the provisions of The Open Meetings Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year or by both such fine and imprisonment.

8.1 Rules of Order

Conduct of Business in Boards¹³

General Procedure¹⁴ - Business can only be conducted by a board in a properly noticed and scheduled meeting of which all board members have been notified and at which a quorum (majority) is present. Obtaining personal approval of a proposed action separately by telephone or interview of one board member is not the approval of the board. The members must be physically present in one room where they can mutually debate the issues. The Open Meetings Act provides for teleconferences, but for very limited circumstance by only a few kinds of public bodies not including Floodplain Boards, so the use is not discussed here. Furthermore, minutes must be kept of each meeting by the secretary of the board. Minutes and other records must be orderly filed and kept for later reference concerning action on any issue. Retaining documents will create a history for further reference on a particular area or issue, the action in general of the board, and documentation of adherence to regulations, ordinances, and state and federal law.

8.2 Procedures in Small Boards¹⁵ In contrast to large boards, members of small boards such as County and Municipal Floodplain Boards are usually not required to obtain the floor before making motions or speaking. Instead, the Chairperson goes down the Agenda, announces items, and then asks for discussion or motion by other members. There is typically no limit on how many times a board member may speak to an

¹³ Robert's Rules of Order Newly Revised (10th Ed.), pg. 469-471

¹⁴ RONR (10th ed.), p. 469, l. 12-35 & pg. 470, l. 3-13

¹⁵ RONR (10th ed.), p. 470, l. 24-32 & pg. 471, l. 5-8

issue. Generally, in small boards, motions to close or limit debate are not entertained. If no motion is pending on an issue, informal conversation regarding the issue at hand is permitted. The Chairman does not need to rise when speaking or while putting questions to vote.

8.3 The procedure of a Floodplain Board may attract a number of citizens who are present to comment. In situations where many public comments are expected by those attending the meeting, those attending to comment, should be given an opportunity to register on a sign up sheet giving name, mailing address, and issue on which they wish to speak. The Chairperson should take up each item on the agenda, invite public comment and allow each speaker an established time to speak. Each person should be recognized in an orderly fashion with only one person allowed to speak at a time. All who register should be availed the opportunity to speak. The Floodplain Board should be invited by the chair to address each speaker with questions or for clarification. The Public Hearing portion of the meeting and agenda item should then be closed and the chair should then redirect the floor to those who are members of the Floodplain Board. After discussion by the board, a motion should be requested, a second made, and a vote taken to approve or deny the item, or continue the item for further discussion to a date certain. (See Appendix "K" for Sample Sign Up Sheet)

8.4 **More Tips on Running a Meeting**¹⁶

To lessen confusion, a Floodplain Board should assign one person to be in charge of preparing each agenda, but this person should not have the authority to censor items. Agenda items must be clear and precise. An item should describe the matter to be presented to the board and be detailed enough for any citizen to understand what the issue is about. For floodplain items, the legal description of areas potentially impacted should be provided. The best way to accomplish the preparation of the agenda is to assign it to the Accredited Floodplain Administrator of the board or the Secretary of Floodplain Board as an ongoing responsibility. (See Appendix "I" for Sample Agenda)

8.5 Items can be deferred or postponed to the next meeting but, if so moved, the item must be listed on the agenda for the next meeting.

8.6 The following is a list of the order in which items are handled at a meeting according to the Oklahoma Municipal League *Handbook*

- Announce the item
- Ask for or give any report on the item
- Allow discussion

¹⁶ Oklahoma Municipal League. (2000). *Handbook for City and Town Officials*, pg. 115-128

- Ask for motion
- Ask for second to motion
- “Any further discussion?”
- Repeat the motion
- Call for a voice vote
- Announce motion, adoption or failure
- If the motion fails, call for a new motion and second. (There should be no discussion until a new motion is made under this circumstance.)
- Repeat steps 4 through 10 until the item is dealt with
- Move to the next item

8.7 A quorum must be present for the Floodplain Board to make any decisions. A quorum is a majority of ALL members of the Floodplain Board, including vacant positions. The Open Meeting Act requires that the vote by each individual for each agenda item for which action is taken be recorded as well.

8.8 It is important for the members of the Board to understand how to handle a motion. Here are some steps laid out in the *OML Handbook*:

- A member addresses the presiding officer
- The presiding officer recognizes the member
- The member states his/her motion
- Another member seconds his/her motion
- Presiding officer states the motion that is made and seconded
- Members may discuss the motion, if debatable
- Clerk takes the vote
- Presiding officer announces the result

8.9 Minutes of each meeting are required by the Oklahoma Open Meeting Act and should, at the very least, include the following items. The minutes need to specify whether the meeting was regularly scheduled, a special meeting, or an emergency meeting. They also must include when and how notice was given of the meeting. Members present and absent need to be listed as such. Matters discussed, actions taken, and each member’s vote need to be recorded in that order. (See Appendix “J” for Sample Minutes format)

8.10 In cases where there is a Floodplain Administrator on Staff, it is always best to have a case profile and recommendation. A Sample of an Outline for Staff Recommendation is attached. (See Appendix “L”) Supporting information, maps, documents, etc. can be supplied to Floodplain Board Members when the Agenda for an upcoming meeting is forwarded. The

information is intended to aid the Floodplain Board in making an informed decision.

Section 9

TOOLS

9.0 Tools

Flood Ordinance

- 9.1** The minimum requirements for your local community, municipality, or unincorporated area of the county to participate in the National Flood Insurance Program. Requirements are based on the Special Flood Hazard Area mapping in your community. Determine what level of Flood Ordinance (minimum requirements) your community will need. The criteria are set forth below. The requirements are mostly cumulative in nature and requirements listed in the Code of Federal Regulations (CFR) 60.3 (a) are also required in 60.3 (b), 60.3 (c), and 60.3 (d).
- 9.2** The following explanation will help the Floodplain Board decide which requirements meet the local community needs, whether 44 CFR 60.3 (a) community, or 60.3 (b), or 60.3 (c) or 60.3 (d) community. (See Appendix “D” for Checklist)
- A.** 60.3 (a) Applies to communities where Special Flood Hazard Areas have not yet been defined by FEMA. The Community may apply and participate in the NFIP but it must require permits for any development anywhere in the community.
 - B.** 60.3 (b) Applies to communities where FEMA has provided a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) that identifies special flood hazard areas (A Zones), but has not provided base flood elevations (BFE) data or identified a floodway. (See Appendix “D” for Sample Ordinance)
 - C.** 60.3 (c) Applies to communities where FEMA has provided final flood elevations (BFE) for one or more special flood hazard areas of the community’s FIRM, but has not identified a regulatory floodway. (See Appendix “D” for Sample Ordinance)
 - D.** 60.3 (d) Applies to communities where FEMA has provided final base flood elevations (BFE) within Zones A1-30 and/or AE on the FIRM, and has provided information to designate a regulatory floodway. (See Appendix “D” for Sample Ordinance) Also review Sections 6 and Sections 7 of this manual for additional information.

9.3 Permits¹⁷

¹⁷ OWRB, *Floodplain Management 101* (2nd Ed.), pg. 121-122

44 CFR Section 60.3 explains Floodplain Management criteria and provides that communities must require permits for development in Special Flood Hazard Areas. Accordingly, once a community joins the NFIP, their floodplain regulations must require permits for development. You may be familiar with building permits, but development permits cover a much broader array of activities. Development permits include “buildings and alterations to landscape (such as excavation or use of fill) that would affect drainage patterns or the flood-carrying capacity of the watercourse.” It is the community’s responsibility to inform its citizens of this requirement. If the citizens do not know they need a permit for these types of developments, they will not apply for them.

9.4 When exactly is a permit required? A development permit is required any time there is proposed development in the regulatory floodplain. For example, a development permit would be necessary “when building or enlarging a structure, placing a manufactured home, mining, dredging, filling, grading, drilling, excavating, landscaping, building, storing supplies and/or equipment, or repairing roads and bridges within flood hazard areas. The placement of a propane tank or fuel storage tank, above or below ground, requires a floodplain development permit.” (See Appendix “F” for a Sample Permit)

9.5 Elevation Certificates¹⁸

An elevation certificate “is to be used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment or Revision (LOMA or LOMR-F). The elevation certificate is one of the requirements set out for community compliance in the NFIP. This requirement provides that the community “obtain the elevation of the lowest floor (including basement) of all new and substantially improved buildings and maintain a record of such information.”

The elevation certificate is only used to certify building elevations. The certificate is to be filled out by a land surveyor, engineer, or architect who is authorized by law to certify elevation information when required.

Community officials authorized by law or ordinance to provide floodplain information may also complete this form. The forms should be filled out using the Flood Insurance Rate Map (FIRM) and the Flood Insurance Study (FIS) in effect at the time of certification. (See Appendix “O” for Elevation Certificate)

9.6 Another tool Floodplain Management Boards use frequently is **Flood Insurance Rate Maps (FIRM)**. FIRMs are official maps of communities issued by FEMA that show the location of both special flood hazard areas

¹⁸ OWRB, *Floodplain Management 101* (2nd Ed.), pg. 155

and the “risk premium zones” of each specific community. These maps are used to complete elevation certificates¹⁹. A Flood Insurance Rate Map (FIRM) could show the floodway (sometimes missing), the special flood hazard areas inundated by the 1% chance flood. The information on the FIRM is used to regulate development in the floodplain and meet standards of the NFIP. FIRMs dated prior to 1987 will not show the floodway on the same map. These communities may have Flood Boundary Floodway Maps to show the floodway. Some communities may only have Flood Hazard Boundary Maps.

9.7 Flood Insurance Studies or a Flood Profile often accompanies the FIRM.

A flood profile is a chart showing the elevation of the water surface during a flood event at a particular location along a river or stream.

9.8 Flood Boundary Floodway Maps are also issued by FEMA and show the boundaries of the 100-year and 500-year floods and the 100-year floodway²⁰.

9.9 Certificate of Fill Placements are documents that certify fill placed in a floodplain has been done so according to the requirements set out in 44 CFR²¹. (See Appendix “G” for Certificate of Fill Placement)

9.10 The Variance Checklist is a very useful tool that helps Floodplain Boards make informed decisions about development in the floodplain. First of all, a variance is “a grant of relief by a community from the terms of a floodplain management regulation.” A variance checklist is a list the Floodplain Board must go through on each variance application to ensure the variance is necessary before granting. Some of the questions included on the checklist are, “Has sufficient technical data been provided which substantiates that there will be NO INCREASE IN FLOOD LEVELS during the base flood (100-year) discharge?” “Is the size of the lot on which new construction or substantial improvements will be built one-half acre or less contiguous to and surrounded by lots with existing structures constructed below the base flood elevation?” “Has good and sufficient cause been shown?” The list continues asking about issues such as hardship on the applicant and possible threats to public safety. At the end of the checklist there is a statement that reads, “If the answer to any of the above is ‘NO’, with the exception of Number 2, the request for a variance should be denied.” (See Appendix “H” for Variance Checklist)

¹⁹ OWRB, *Floodplain Management 101* (2nd Ed.), pg. 11

²⁰ OWRB, pg. 11

²¹ OWRB, pg. 183

LIABILITY & TORT CLAIMS

Section 10

10.1 Oklahoma State Statute 51 § 151 – 171 is the act known as “The Governmental Tort Claims Act.” The Act became law on October 1, 1985 and is a successor to Oklahoma’s Political Subdivision Tort Claims Act developed through a special study of the Oklahoma Municipal League in 1977. The purpose of the act is to protect citizens who are injured by actions of the state, a city or town, county or school district or other political subdivisions. In addition it also protects the governmental units and their employees from liability or tort claims arising out of their actions in performance of their duties.

10.2 The act covers the actions of Floodplain Boards acting within the scope of their duties, and protects the members in the performance of their duties. Section 152 of the act outlines who is covered. The act defines coverage as “any person who is authorized to act in behalf of a political subdivision whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis.” (See State Statute 51 § 152)

10.3 All peoples who are designated to act for a governmental unit including boards and committees and regardless if they are paid or are volunteers are covered.

10.4 Section 155 “Exemptions from liability” list thirty (30) exemptions from a loss or claim resulting from actions of the political subdivision. Below are only a few that directly relate to the actions of a Floodplain Board.

Exemptions:

- i. Legislative functions;
- ii. Adoption or enforcement of or failure to adopt or enforce a law, whether valid or invalid, including, but not limited to, and statute, charter provision, ordinance, resolution, rule, regulation or written policy;
- iii. Performance of or the failure to exercise or perform any act or service which is in the discretion of the state or political subdivision or its employees;
- iv. Any claim based on the theory of attractive nuisance;
- v. Snow or ice conditions or temporary or natural conditions on any public way or

other public place due to weather conditions.

- vi. Licensing powers or functions including, but not limited to, the issuance, denial, suspension or revocation of or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval order or similar authority;
- vii. Misrepresentation, if unintentional;
- viii. Acts or omissions done in conformance with then current recognized standards;

10.5 The Statute also limits who may file a claim, where and when the claim can be filled. Basically not everyone who suffers a loss is a proper claimant and entitled to file a claim. Persons who can file a claim include:

1. A person holding an interest in real or personal property which suffers a loss;
2. The person who is actually involved in the accident or occurrence who suffer a loss;
3. The representative of a person who dies.

10.6 Claims must be in writing and filed with the clerk of the governing body. It shall state the date, time, place, and circumstance of the claim, the identity of the governmental unit, the amount of compensation or other relief demanded, the name, address and telephone number of any agent authorized to settle the claim. Failure to include the items listed does not invalidate the notice unless the claimant declines or refuses to furnish such information after demand by the governmental unit to do so (O.S.51§156E).

10.7 Claims are to be presented within 90 days of the date the loss occurs, however the time does not include the time during which the person injured is unable due to incapacitation. (O.S.51§156F)

10.8 A claim may be forever barred unless notice thereof is presented within one (1) year after the loss occurs. (O.S.51§156B)

10.9 The dollar amounts of claims are limited in Section 154. The limits are:

1. \$25,000. For any claim or to any claimant who has more than one claim for property losses in a single accident.
2. \$100,000. To any claimant for his claims for any other loss in a single accident.
3. \$1,000,000. For all claims arising out of a single accident.
Any settlement over \$10,000. Must be approved by district court and entered as a judgment.

10.10 A common question for members of a Floodplain Board is whether they can be personally sued, and if they are sued, who is responsible for defense and judgment cost. As long as the member is acting within the scope of the member's duties, is not fraudulent or corrupt, the member cannot be sued individually for losses that occur in the performance of public duties. The intent of the law is to eliminate personal liability exposure for those who hold a public office such as a member of a Floodplain Board. If a member is outside the scope of his duties when a wrongful act occurs, then the member could be sued and be liable as a private person. The governing body is required to provide legal defense unless the member was acting outside the scope of the member's duties. (O.S. 51 §162) It is further required by Section 162 to reimburse and indemnify any member who has been sued individually for a tort if the tort as committed in the scope of employment was not fraudulent or corrupt, and the member cooperates in good faith in the member's defense. The governing body is required to pay any judgment or settlement against a member because of a violation of federal civil rights laws if the violation occurred in the scope of employment, was in good faith, and the member cooperated in his/her defense. If a bond is ordered by the court for any cause of action filed against a member on or after January 1, 1990, the government body is require to post the bond.

10.11 In summary the actions of a Floodplain Board acting within the limits of their responsibilities and duties as outlined by Federal, State, and Local Statue, Law, Ordinance, Regulation, and Policy have a high degree of protection from Liability or Tort Claims in the State of Oklahoma.

CONSULTATION WITH PARTNERS

OKLAHOMA

STATE OF OKLAHOMA WATER RESOURCES BOARD

3800 NORTH CLASSEN

OKLAHOMA CITY, OKLAHOMA 73118

Phone: (405) 530-8800

Fax: (405) 530-8900

Coordinator; Mike Mathis

Email: memathis@owrb.state.ok.us

Consultant: WK Morris Consulting, LLC, CFM

Email: wkmorris@owrb.state.ok.us

State Web Page: www.owrb.state.ok.us

Guidebook: [Guide for Local Floodplain ordinance Administrators](#)

[Oklahoma's Floodplain Management 101 Textbook](#)

HFIP BUREAU & STATISTICAL AGENT

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Sources

1. Federal Emergency Management Agency. (2002). *National Flood Insurance Program; Program Description*. Retrieved January 27, 2006, from www.fema.gov.
2. Oklahoma Municipal League. (2000). *Handbook for City and Town Officials*. Oklahoma City, OK
3. Oklahoma Water Resources Board. (2004). *Floodplain Management Information Series Bulletin # 1*.
4. Oklahoma Water Resources Board. *Oklahoma's Floodplain Management 101* (2nd Ed.). Norman, OK: Duane A. Smith, Executive Director
5. Robert, Henry M. III, et al. (2000). *Robert's Rules of Order; Newly Revised 10th Edition*. Cambridge: Perseus Publishing Company.
6. Title 25, Oklahoma State Statutes, Chapter 8, §301-314, as amended. Effective October 1, 1977; revised/updated in 1981, 1982, 1987, 1988, 1992, 1993, 1994, 1995, 1999, 2000, 2001, 2003, 2004, and 2005
7. Title 44, Code of Federal Regulations, Parts 9, 59, 60, 63, 66, 68, and 73; retrieved from <http://ecfr.gpoaccess.gov>.
8. Title 82, Oklahoma State Statutes, Chapter 23 §1601-1618, as amended. Effective May 13, 1980; revised/updated in 2001, 2002, and 2004

APPENDIX "A"

Resolution to Authorize Floodplain Management and Appointment of Floodplain Board

County – Part 1

City – Part 2

Part 1
APPENDIX "A" COUNTY
BEFORE THE BOARD OF COMMISSIONERS OF
_____ COUNTY
RESOLUTION NUMBER _____

RESOLUTION CONCERNING PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM, APPOINTING A FLOODPLAIN BOARD AND AUTHORIZING ADOPTION OF FLOODPLAIN MANAGEMENT REGULATIONS

WHEREAS, certain areas of _____ County are subject to periodic flooding from rivers and streams causing serious damage to properties within the county; and

WHEREAS, relief is available in the form of federally subsidized flood insurance as authorized by the U.S. Congress in the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of this county Commission to provide the opportunity to all residents to secure flood insurance protection as may be available and to require the recognition and evaluation of flood hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this body has the authority to establish a Floodplain Management Board which shall be authorized to adopt floodplain management regulations and measures to reduce flood losses pursuant to Title 82 Section 1601 through 1618, of the Oklahoma Statutes; and

1. NOW THEREFORE, be it ordered by the Board of County Commissioners of _____ County: The _____ Board of County Commissioners hereby establishes a Floodplain Management Board, for _____ County, which is hereby granted the authority to adopt, administer and enforce floodplain management regulations within the limits of the unincorporated portion of the County, except that portion(s) of the County already being managed by a municipal, joint municipal/county, or other existing planning commission at the discretion of the Board of County Commissioners.

2. The Floodplain Management Board shall be composed of five (5) members appointed by the Board of County Commissioners, all of who must be residents of the county and shall own or operate real property with the unincorporated areas of the county. Members of the Floodplain Management Board shall serve without compensation. The Board of County Commissioners may remove members of the Floodplain Management Board only after a public hearing for that purpose. Vacancies shall be filled for the unexpired term only.

3. The initial membership of the Floodplain Management Board is hereby appointed as follows:

_____ for a two year term expiring

(NAME) (DATE)

_____ for a two year term expiring

(NAME) (DATE)

_____ for a four year term expiring

(NAME) (DATE)

_____ for a four year term expiring

(NAME) (DATE)

_____ for a six year term expiring _____

(NAME) (DATE)

After the term of a member expires, all appointments shall be made for terms of six years each.

4. The Floodplain Management Board shall adopt such rules and regulations as may be consistent with sound floodplain management and which satisfy all provisions of state and federal floodplain management rules and regulations.

5. The Floodplain Management Board shall hold meetings whenever so called upon by the Board of County Commissioners.

6. This Board of Commissioners hereby:

a. Assures the Federal Insurance Administrator that its Floodplain Management Board will enact and maintain in force rules for those areas having floodplain management measures pursuant to 44 CFR Section 59 through 77, with effective enforcement provisions consistent with the criteria set forth in Section 60 of the National Flood Insurance Program Regulations; and

b. Vests the Floodplain Management Board with the responsibility, authority and means to:

(1) Assist the administrator, at his request, in delineating the limits of areas having special flood hazards on available local maps of sufficient detail and scale to identify the location of building sites.

(2) Provide such information as the Administrator may request concerning present and proposed uses and occupancy of the floodplains.

(3) Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplains and cooperate with neighboring communities with respect to the management of adjoining floodplains in order to prevent aggravation of existing or potential hazards.

(4) Submit on the anniversary date of the county's initial eligibility, or at such time as requested by the Administrator, a report on the progress made during the last year within the county in the development and implementation of floodplain management measures.

(5) Assure that stream maintenance is provided within any altered, relocated or improved watercourse under the jurisdiction of the Floodplain Management Board so that the flood carrying capacity is not diminished.

(6) Upon occurrence notify the Administrator in writing whenever the boundaries of the county's area of jurisdiction have been reduced through

annexation or increased through de-annexation so that the County has assumed or lost responsibility for floodplain management regulation for a particular area.

(7) Authorize the Floodplain Board to designate a floodplain administrator for the community to maintain for public inspection and to furnish upon request, for the determination of applicable flood insurance risk premiums within all areas having special flood hazards identified on a Flood Insurance Rate Map (FIRM), any certificates of elevation or floodproofing and information on the lowest floor elevation of all now or substantially improved structures, and include whether or not such structures contain a basement and if the structure has been floodproofed to the elevation to which the structure was floodproofed.

(8) Agree to take such other official action as may be reasonable and necessary to carry out the objectives of the program.

Passed and approved this _____ day of _____, 20 ____

(COMMISSIONER)

(COMMISSIONER)

(COMMISSIONER)

I do certify as of this _____ day of _____, 20 ____ that the above is a true and correct copy of an order passed and approved by the _____ on _____

(SEAL)

County Clerk

Part 2

APPENDIX "A" CITY/TOWN
BEFORE THE CITY/TOWN COUNCIL OF

CITY/TOWN
RESOLUTION NUMBER _____

RESOLUTION CONCERNING PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM, APPOINTING A FLOODPLAIN BOARD AND AUTHORIZING ADOPTION OF FLOODPLAIN MANAGEMENT REGULATIONS

WHEREAS, certain areas of _____ City/Town are subject to periodic flooding from rivers and streams causing serious damage to properties within the community; and

WHEREAS, relief is available in the form of federally subsidized flood insurance as authorized by the U.S. Congress in the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of this _____ City/Town to provide the opportunity to all residents to secure flood insurance protection as may be available and to require the recognition and evaluation of flood hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this body has the authority to establish a Floodplain Management Board which shall be authorized to adopt floodplain management regulations and measures to reduce flood losses pursuant to Title 82 Section 1601 through 1618, of the Oklahoma Statutes; and

1. NOW THEREFORE, be it ordered by the City/Town Council of _____ City/Town: The _____ City/Town Council hereby establishes a Floodplain Management Board, for _____ City/Town, which is hereby granted the authority to adopt, administer and enforce floodplain management regulations within the corporate limits of City/Town, except that portion(s) of the City/Town already being managed by a municipal, joint municipal/city/town, or other existing planning commission at the discretion of the City/Town Council.

2. The Floodplain Management Board shall be composed of five (5) members appointed by the City/Town Council, all of whom must be residents of the incorporated areas of the City/Town. Members of the Floodplain Management Board shall serve without compensation. Members of the Floodplain Management Board may be removed by the City/Town Council for cause only after a public hearing for that purpose. Vacancies shall be filled for the unexpired term only.

3. The initial membership of the Floodplain Management Board is hereby appointed as follows:

_____ for a two year term expiring

(NAME) (DATE)

_____ for a two year term expiring

(NAME) (DATE)

_____ for a four year term expiring

(NAME) (DATE)

_____ for a four year term expiring

(NAME) (DATE)

_____ for a six year term expiring _____

(NAME) (DATE)

After the term of a member expires, all appointments shall be made for terms of six years each.

4. The Floodplain Management Board shall adopt such rules and regulations as may be consistent with sound floodplain management and which satisfy all provisions of state and federal floodplain management rules and regulations.

5. The Floodplain Management Board shall hold meetings whenever so called upon by the City/Town Council.

6. This City/Town Council hereby:

a. assures the Federal Insurance Administrator that its Floodplain Management Board will enact and maintain in force rules for those areas having floodplain management measures pursuant to 44 CFR Sections 59 through 77, with effective enforcement provisions consistent with the criteria set forth in Section 60 of the National Flood Insurance Program Regulations; and

b. vests the Floodplain Management Board with the responsibility, authority and means to:

(1) Assist the administrator, at his request, in delineating the limits of areas having special flood hazards on available local maps of sufficient detail and scale to identify the location of building sites.

(2) Provide such information as the Administrator may request concerning present and proposed uses and occupancy of the floodplains.

(3) Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplains and cooperate with neighboring communities with respect to the management of adjoining floodplains in order to prevent aggravation of existing or potential hazards.

(4) Submit on the anniversary date of the City/Town's initial eligibility, or at such time as requested by the Administrator, a report on the progress made during the last year within the City/Town in the development and implementation of floodplain management measures.

(5) Assure that stream maintenance is provided within any altered, relocated or improved watercourse under the jurisdiction of the Floodplain Management Board so that the flood carrying capacity is not diminished.

(6) Upon occurrence notify the Administrator in writing whenever the boundaries of the City/Town's area of jurisdiction have been reduced through annexation or increased through de-annexation so that the City/Town has

City/Town, Oklahoma hereby certify that the above and foregoing is a true, correct and complete copy of the Resolution duly passed and approved by the City/Town Council for _____ City/Town and of the proceedings of the Board in the adoption of said Resolution on the date therein set out as shown by the records of my office.

I further certify that the Oklahoma Open Meeting Act was complied with in all respects.

WITNESS my hand the seal of said _____,
_____ County this _____ day of _____ 20_____.

(Seal)

City/Town Clerk

APPENDIX "B"
Duties of Floodplain Board

APPENDIX "B"

The Duties of a Floodplain Board in Oklahoma

The Oklahoma Floodplain Management Act, Title 82, Section 1604-addresses County and municipal floodplain boards, their establishment and land use regulations. The first sentence states, "To allow participation in the program, the Board, boards of county commissioners and municipal governing bodies are authorized to establish floodplain boards for their respective area of jurisdiction which may adopt, administer and enforce floodplain management regulations, for the purpose of:

The delineation of floodplains and floodways;

The preservation of the capacity of the floodplain to carry and discharge regional floods;

The minimization of flood hazards; and

The regulation of the use of land in the floodplain.

The regulations shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

The OWRB, the county or the municipality shall approve the regulations, as the case may be, by appropriate order, resolution or ordinance.

In summary, a floodplain board has the responsibility of managing its floodplain responsibly. This includes administering and enforcing its flood ordinance. Floodplain boards give this primary duty to their floodplain manager. Floodplain boards then can hold monthly meetings to review its program and consider floodplain permit applications and review the activities of their floodplain administrator. Other issues can be addressed at this time if necessary.

As a community grows in its floodplain management program other duties and activities may become apparent. Any public body is a dynamic entity and should review its activities from time to time and improve upon its main function. The development of mission & vision statements is advised, as well as goals and objectives. These can be addressed in a strategic plan.

Primary source for this information was taken from Appendix B-1, the Oklahoma Floodplain Management Act and Appendix E-15, of the *Guidebook for Local Floodplain Ordinance Administrators*, OWRB, January 1999.

APPENDIX "C"

Appointment of Floodplain Manager

Duties of Floodplain Manager

**RESOLUTION APPOINTING THE CITY/TOWN OF
_____ FLOODPLAIN ADMINISTRATOR**

IN THE MATTER OF _____)
DESIGNATING THE FLOODPLAIN) RESOLUTION No. _____
ADMINISTRATOR FOR CITY/TOWN)
OF _____) DATE _____

RESOLUTION

THE _____ FLOODPLAIN BOARD & City/Town Council, assure the Federal Insurance Administrator that they will enact and maintain in force rules for those areas identified as special flood hazard areas pursuant to 44 CFR Section 59 through 77, with effective enforcement provisions consistent with the criteria set forth in Section 60 of the National Flood Insurance Program Regulations; and

THE _____ CITY/TOWN FLOODPLAIN BOARD designates _____ as the Floodplain Administrator to maintain for public inspection and to furnish upon request, for the determination of applicable flood insurance risk premiums within all areas having special flood hazards identified on the _____ City/Town Flood Insurance Rate Map (FIRM), any Certificates of Elevation of floodproofing and information on the lowest floor elevation of all new or substantially improved structures, and include whether or not such structures contain a basement and if the structure has been floodproofed and that the Floodplain Administrator will generally do all such things as in his/her judgment that may be necessary, proper, or expedient in the accomplishment of his/her duties; AND

THE _____ CITY/TOWN FLOODPLAIN ADMINISTRATOR shall perform the duties and responsibilities delineated in the _____ Floodplain Management Regulations or Ordinance, as delineated in Article IV, Administration Section B.

Chairman, Floodplain Board or City/Town Council

Adopted by the _____) Date _____
_____) city/town
Floodplain Board)

APPENDIX "C"

Duties of a Local Floodplain Administrator

There are two main goals according to the Unified National Program.

1. Protect and preserve the natural and beneficial functions of the floodplain.
2. Reduce flood damages to personal property and reduce number of lives lost from flooding events.

How can the local floodplain administrator meet these two goals and objectives of the Unified National Program? Establish a local floodplain management program.

How does the local floodplain manager do this? First join the NFIP. This allows residents to purchase flood insurance and allows communities to qualify for FEMA mitigation grant programs.

What happens when you join the NFIP? Officials adopt a flood ordinance that requires officials to regulate floodplain development in the high-risk areas.

The minimum tasks, but not limited to, are to enforce and administer the flood ordinance.

1. Conduct workshops & educate citizens in the community about your floodplain ordinance and that permits are required before any development is allowed in the special flood hazard areas. Publish press releases.
2. Attend training provided by OML, ACCO, OWRB, FEMA and the Oklahoma Floodplain Managers Association (OFMA).
3. Develop an application.
4. Develop an application and permit fee structure.
5. Develop partnerships with entities needed to ensure this task-rural electric, county sanitarians, gas companies-utility companies, etc. Enter into Interlocal Cooperative Agreements.
6. Develop a checklist for application review.
7. Develop a permit form and permit post sign.
8. Educate all internal partners about program such as superiors, district

attorney, police officers, code enforcement officials, others.

9. Follow the ordinance and strengthen ordinance to go above and beyond the minimum.

10. Look at other ways to improve flood loss reduction such as the No Adverse Impact Initiative, develop a Stormwater Utility fee, adopt a stormwater management ordinance, require detention, etc.

These are only a few tasks for the local floodplain administrator. It is important to allow each program to evolve and develop and think "out side the box" and go above and beyond the minimum.

Prepared by Ken Morris, contractor for OWRB. February 27, 2004, Oklahoma Water Resources Board, 3800 N. Classen Blvd., OKC, OK 73118, (405) 530-8800.

APPENDIX "D"

Sample Ordinance for Level "B"

Sample Ordinance for Level (C)

Sample Ordinance for Level (D)

SAMPLE ORDINANCE FOR LEVEL "B"

60.3(b) State Model

"Please note, if your community joined the NFIP prior to May 13, 1980, your community may adopt an ordinance, however if your community joined after this date the floodplain board of your community is required to adopt floodplain management regulations to comply with Oklahoma State Law, Title 82, Section 1601-1618, as amended. In either case, these regulations are provided only as an example and first must be modified by OWRB staff before adoption. Please contact OWRB staff for assistance at (405) 530-8800."

FLOOD DAMAGE PREVENTION ORDINANCE

Or

{Community name} Floodplain Board Regulations

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in O.S. Title 82 §§ 1601-1618 as amended, delegated the responsibility of local governmental units to establish floodplain boards and for these boards to adopt regulations designed to minimize flood losses. Therefore, the *{governing body of name of community}* Oklahoma, does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of *{community name}* 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.

(2) 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 hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance 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:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. 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
7. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

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;

Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

Control filling, grading, dredging and other development which may increase flood damage;

Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

ACCESSORY STRUCTURE - Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION – means the elevation in feet above mean sea level of the 1% chance flood elevation as described above under base flood.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BOARD – means the Oklahoma Water Resources Board.

CRITICAL FEATURE - means 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 - means any man-made 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 - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers),

or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "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 flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means for the purposes 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 - means 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- means 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 OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

The overflow of inland or tidal waters.

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

FLOOD INSURANCE RATE MAP (FIRM) - means 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 - is 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 Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN ADMINISTRATOR – means a person accredited by the Board and designated by a floodplain board, to administer and implement the laws and regulations relating to the management of floodplains.

FLOODPLAIN MANAGEMENT - means 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 - means 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.

FLOOD PROTECTION SYSTEM - means 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.

FLOOD PROOFING - means any combination of structural and non-structural 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) - means 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 - means a use, which 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 ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

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;

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;

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

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

By an approved state program as determined by the Secretary of the Interior or;

Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made 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 - means 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 - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 - means 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 - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, 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 - means 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 - means a vehicle which is:

Built on a single chassis;

400 square feet or less when measured at the largest horizontal projections;

Designed to be self-propelled or permanently towable by a light duty truck;
and

Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), 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 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 - means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

1. 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
2. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the 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), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of

floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of *{name of community}*, Oklahoma.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

{Please contact the OWRB at 405-530-8800 or wkmorris@owrb.state.ok.us for specific language to place here. If the exact language is not used, these regulations will not comply with NFIP minimum requirements.}

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and

another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance 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 man-made or natural causes. This ordinance 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 ordinance 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 this ordinance or any administrative decision lawfully made hereunder.

ARTICLE IV

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The *{Name of Floodplain Board}* shall designate a Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. 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 U.S.C. 1334) from which prior approval are required.
5. 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.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is 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.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

9. Become accredited in accordance with O.S. Title 82, §§ 1601-1618 as amended.
10. After a disaster or other type of damage occurrence to structures in the *{name of community}*, determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION C. PERMIT PROCEDURES

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 Article 5, Section B (2);
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 Article 4, Section (B)(1).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance 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 flood waters 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 the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

1. The appeal Board as established by the community shall hear and render judgement on requests for variances from the requirements of this ordinance.

2. The Appeal Board shall hear and render judgement 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 ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. 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.
5. 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 ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half 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 Section C 2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. 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.
10. Prerequisites for granting variances:

a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b) Variances shall only be issued upon:

Showing a good and sufficient cause;

A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

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.

c) A written notice will be sent to any applicant that is issued a variance for the construction of a structure below the base flood elevation and it will inform them flood insurance will be commensurate of the increased risk.

11. 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:

a) The criteria outlined in Article 4, Section D (1)-(9) are met, and

b) 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.

12. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

13. In no case shall a variance be effective for a period longer than twenty (20) years.

14. A copy of any variance issued shall be sent to the Board within fifteen (15) days of issuance.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. 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;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. 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.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or 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 Article 4, Section C (1) a., is satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. The Floodplain Administrator shall maintain a record of each certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed.

3. **Manufactured Homes** - Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. 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.

4. **Accessory Structures** –

- a) Structure is low valued and represents a minimal investment.
- b) Structure shall be small and not exceed 600 square feet in size.
- c) Structure shall be unfinished on the interior.
- d) Structure can be used only for parking and limited storage.
- e) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
- f) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.
- g) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
- h) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
- i) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
- j) Floodway requirements must be met in the construction of the structure.
- k) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.

- l) Structure is to be located so as not to cause damage to adjacent and nearby structures.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
3. 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 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. 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.

SECTION F. SEVERABILITY

If any section, clause, sentence, or phrase of these Regulations (or ordinance as the case may be) is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of these Regulations (or ordinance as the case may be).

PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than **(\$\$\$ *penalty amount*)** or imprisoned for not more than **{*number of days*}** days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent **{*name of floodplain board and commission or council*}** officials from taking such other lawful action as is necessary to prevent or remedy any violation

CERTIFICATION

It is hereby found and declared by **{*name of community floodplain board*}** that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

ADOPTED; _____
(Floodplain Board Chairman)

PASSED: _____
(Date)

I, the undersigned, _____, do hereby certify that
the above is a true and correct copy of an ordinance duly adopted by the **{name
of floodplain board}**, at a regular meeting duly convened on

(Date)

(Secretary of Floodplain Board)

(SEAL)

Sample Ordinance Level “C”

State of Oklahoma Model C – these regulations are for a community with base flood elevations, a flood insurance study and no floodways identified.

Following is an example Model C set of regulations that comply with the Oklahoma Floodplain Management Act. These regulations only meet the minimum NFIP Standards. They do contain an example penalty clause as required by minimum NFIP standards. These regulations are also compliant with Oklahoma Statutes, Title 82, Section 1601-1618, as amended. If you are a community that joined the NFIP after May 13, 1980, your communities Floodplain Board is required to adopt floodplain management regulations. If you joined prior to May 13, 1980, your community has the option of adopting an ordinance. Please consult with OWRB staff at (405) 530-8800, prior to taking any action on new regulations or ordinance.

{Name of town, city, county or tribe-all caps} FLOODPLAIN BOARD REGULATIONS

Or

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in (statutes) 82 O.S. §§1601-1618, as amended, Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the **{name of city, town, county or tribe}**, Oklahoma, does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of {**name of city, town, county or tribe**} 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.

(2) 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 hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of these regulations 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:

8. Protect human life and health;
9. Minimize expenditure of public money for costly flood control projects;
10. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
11. Minimize prolonged business interruptions;
12. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
13. 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
14. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, these regulations use the following methods:

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;

Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

Control filling, grading, dredging and other development which may increase flood damage;

Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ACCESSORY STRUCTURE - Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD – means the elevation in feet above mean sea level of the 1% chance flood elevation as defined in base flood above.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BOARD – means the Oklahoma Water Resources Board.

CRITICAL FEATURE - means 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 - means any man-made 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 - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "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 flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means for the purposes 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 - means 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- means 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 OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

The overflow of inland or tidal waters.

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

FLOOD INSURANCE RATE MAP (FIRM) - means 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 - is 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 Flood Boundary-Floodway Map.

FLOODPLAIN ADMINISTRATOR – means a person accredited by the Board and designated by a floodplain board, to administer and implement laws and regulations relating to the management of the floodplains.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means 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 - means 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.

FLOOD PROTECTION SYSTEM - means 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.

FLOOD PROOFING - means any combination of structural and non-structural 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) - means 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 - means a use, which 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 ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

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;

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;

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

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

By an approved state program as determined by the Secretary of the Interior or;

Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made 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 - means 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 - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 - means 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 - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, 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 - means 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 - means a vehicle which is:

Built on a single chassis;

400 square feet or less when measured at the largest horizontal projections;

Designed to be self-propelled or permanently towable by a light duty truck;
and

Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), 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 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 - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

3. 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
4. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the 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), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This set of regulations shall apply to all areas of special flood hazard within the jurisdiction of {name of community}.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

{Please contact the OWRB at 405-530-8800 or wkmorris@owrb.state.ok.us for specific language to place here. If the exact language is not used, these regulations will not comply with NFIP minimum requirements.}

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of these regulations.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another set of regulations or ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

4. Considered as minimum requirements;
5. Liberally construed in favor of the governing body; and
6. Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by these regulations or ordinance 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 man-made or natural causes. These regulations or ordinance do 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. These regulations or ordinance 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 this ordinance or regulations or any administrative decision lawfully made hereunder.

ARTICLE IV

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The {**name of community**} Floodplain will designate or appoint a Floodplain Administrator to administer and implement the provisions of these regulations and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

11. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
12. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
13. Review, approve or deny all applications for development permits required by adoption of this ordinance.
14. 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 U.S.C. 1334) from which prior approval are required.
15. 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.

16. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is 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.
17. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
18. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
19. 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 Zones A1-30 and 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 at any point within the community.
20. 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 Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
21. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.
22. After a disaster or other type of damage occurrence to structures in the **{name of community}**, determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION C. PERMIT PROCEDURES

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:

6. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
7. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
8. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);
9. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
10. Maintain a record of all such information in accordance with Article 4, Section (B)(1).

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:

11. The danger to life and property due to flooding or erosion damage;
12. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
13. The danger that materials may be swept onto other lands to the injury of others;
14. The compatibility of the proposed use with existing and anticipated development;

15. The safety of access to the property in times of flood for ordinary and emergency vehicles;
16. 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;
17. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
18. The necessity to the facility of a waterfront location, where applicable;
19. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
20. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

15. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of these regulations.
16. 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 these regulations or ordinance.
17. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
18. 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.

19. 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 these regulations or ordinance.
20. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half 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 Section C (2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
21. Upon consideration of the factors noted above and the intent of these regulations, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of these regulations (Article 1, Section C).
22. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
23. 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.
24. Prerequisites for granting variances:
 - d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - e) Variances shall only be issued upon:
 - Showing a good and sufficient cause;

A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

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.

f) A written notice will be provided to any person granted a variance to build a structure below the base flood elevation that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

25. 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:

c) The criteria outlined in Article 4, Section D (1)-(9) are met, and

d) 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.

26. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

13. A copy of any variance issued shall be sent to the OWRB within in fifteen (15) days of issuance.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

8. 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;
9. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
10. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
11. 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.
12. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
13. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
14. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

4. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or 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 Article 4, Section C (1) a., is satisfied.

5. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. The Floodplain Administrator shall maintain a record of the proposed and as built floodproofed elevation (in relation to mean sea level) of any structure floodproofed in a special flood hazard area.

6. **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:
 - a) A minimum of two 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.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

5. **Manufactured Homes** -

- a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices, which minimize flood damage. 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.
 - b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) 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 lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - 1) The lowest floor of the manufactured home is at or above the base flood elevation, or
 - 2) Reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement support the manufactured home chassis.
6. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a) Be on the site for fewer than 180 consecutive days,
- b) Be fully licensed and ready for highway use, or
- c) Meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) 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.

7. Accessory Structure –

- m) Structure is low valued and represents a minimal investment.
- n) Structure shall be small and not exceed 600 square feet in size.
- o) Structure shall be unfinished on the interior.
- p) Structure can be used only for parking and limited storage.
- q) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
- r) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.
- s) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
- t) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
- u) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
- v) Floodway requirements must be met in the construction of the structure.

- w) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
- x) Structure is to be located so as not to cause damage to adjacent and nearby structures.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

6. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of these regulations.
7. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of these regulations.
8. 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 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of these regulations.
9. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
10. 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.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood

hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flows may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
2. All new construction and substantial improvements of **non-residential** structures;
 - a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - b) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1) a., are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION F. SEVERABILITY

If any section, clause, sentence, or phrase of these Regulations (or ordinance as the case may be) is held to be invalid or unconstitutional by any court of competent jurisdiction, then

said holding shall in no way affect the validity of the remaining portions of these Regulations (or ordinance as the case may be).

PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these regulations or ordinance and other applicable regulations. Violation of the provisions of these regulations or ordinance 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 these regulation or ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ _____ or imprisoned for not more than ____ days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the **{name of community}** _____ from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION

It is hereby found and declared by the Floodplain Board of **{name of community}** _____ that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

ADOPTED; _____

(Chairman of Floodplain Board)

PASSED: _____

(Date)

I, the undersigned, _____, do hereby certify that the above is a true and correct copy of an ordinance or set of floodplain management regulations duly adopted by the **{name of community}** Floodplain Board, at a regular meeting duly convened on _____.

(Date)

(Secretary of Floodplain Board)

(SEAL)

Sample Ordinance Level “D”

State of Oklahoma Model D – these regulations are for a community with base flood elevations, a flood insurance study and floodways identified on the FIRM.

Following is an example Model D set of regulations that comply with the Oklahoma Floodplain Management Act. These regulations only meet the minimum NFIP Standards and State Law. These regulations contain an example penalty clause as required by minimum NFIP standards and are also compliant with Oklahoma Statutes, Title 82, Section 1601-1618, as amended. If your community joined the NFIP after May 13, 1980, your community’s Floodplain Board is required to adopt floodplain management regulations. If your community joined prior to May 13, 1980, your community has the option of adopting an ordinance. Please consult with OWRB staff at (405) 530-8800, prior to taking any action on adoption of these regulations or adopting a floodplain management ordinance.

{Name of town, city, county or tribe-all caps} FLOODPLAIN BOARD REGULATIONS

OR

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in (statutes) 82 O.S. §§1601-1618, as amended, Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the {NAME OF CITY, TOWN, COUNTY OR TRIBE} Floodplain Board, adopts the following floodplain management regulations:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of the {**Name of City, Town, County or Tribe**} 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.

(2) 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 hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of these regulations or ordinance 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:

15. Protect human life and health;
16. Minimize expenditure of public money for costly flood control projects;
17. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
18. Minimize prolonged business interruptions;
19. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
20. 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

21. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, these regulations or ordinance uses the following methods:

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;

Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

Control filling, grading, dredging and other development which may increase flood damage;

Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give these regulations or ordinance its most reasonable application.

ACCESSORY STRUCTURE - Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation – means the elevation in feet above mean sea level of the 1% chance flood as defined as the base flood shown above.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BOARD – means the Oklahoma Water Resources Board.

CRITICAL FEATURE - means 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 - means any man-made 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 - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "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 flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means for the purposes 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 - means 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- means 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 OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

The overflow of inland or tidal waters.

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

FLOOD INSURANCE RATE MAP (FIRM) - means 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 - is 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 Flood Boundary-Floodway Map.

FLOODPLAIN ADMINISTRATOR – means a person accredited by the Board and designated by a floodplain board, to administer and implement laws and regulations relating to the management of the floodplains.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means 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 - means 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.

FLOOD PROTECTION SYSTEM - means 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.

FLOOD PROOFING - means any combination of structural and non-structural 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) - means 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 - means 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 ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

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;

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;

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

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

By an approved state program as determined by the Secretary of the Interior or;

Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made 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 - means 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 - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 - means 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 - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, 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 - means 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 - means a vehicle which is:

Built on a single chassis;

400 square feet or less when measured at the largest horizontal projections;

Designed to be self-propelled or permanently towable by a light duty truck;

and

Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), 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 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 - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent 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:

5. 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
6. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of these regulations or ordinance 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 - means 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), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THESE REGULATIONS APPLY

These floodplain management regulations shall apply to all areas of special flood hazard within the jurisdiction of the {Name of city, town, county or tribe}, Oklahoma.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

{Please contact the OWRB at 405-530-8800 or wkmorris@owrb.state.ok.us for specific language to place here. If the exact language is not used, these regulations will not comply with NFIP minimum requirements.}

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of these floodplain management regulations.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of these regulations and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

7. Considered as minimum requirements;
8. Liberally construed in favor of the governing body; and
9. Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by these regulations 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 man-made or natural causes. These regulations do 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. These regulations 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.

ARTICLE IV

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The {Name of community} Floodplain Board shall designate or appoint a Floodplain Administrator to administer and implement the provisions of these regulations and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

23. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.
24. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
25. Review, approve or deny all applications for development permits required by adoption of these regulations.
26. 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 U.S.C. 1334) from which prior approval are required.
27. 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.

28. 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.
29. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
30. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
31. 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 Zones A1-30 and 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 at any point within the community.
32. 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 Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
33. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.
34. After a disaster or other type of damage occurrence to structures in the **{Name of community}**, determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION C. PERMIT PROCEDURES

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:

11. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
12. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
13. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);
14. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
15. Maintain a record of all such information in accordance with Article 4, Section (B)(1).

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:

21. The danger to life and property due to flooding or erosion damage;
22. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
23. The danger that materials may be swept onto other lands to the injury of others;

24. The compatibility of the proposed use with existing and anticipated development;
25. The safety of access to the property in times of flood for ordinary and emergency vehicles;
26. 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;
27. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
28. The necessity to the facility of a waterfront location, where applicable;
29. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
30. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

27. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of these regulations.
28. 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 these regulations.
29. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

30. 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.
31. 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 these regulations.
32. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half 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 Section C (2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
33. Upon consideration of the factors noted above and the intent of these regulations, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of these regulations (Article 1, Section C).
34. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
35. 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.
36. Prerequisites for granting variances:
 - g) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - h) Variances shall only be issued upon:
 - Showing a good and sufficient cause;

A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

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, regulations or ordinances.

- i) 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.

37. 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:

e) The criteria outlined in Article 4, Section D (1)-(9) are met, and

f) 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.

38. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

39. A copy of any variance issued shall be sent to the OWRB within in fifteen (15) days of issuance.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

15. 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;
16. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
17. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
18. 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.
19. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
20. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
21. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

7. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor

(including basement), elevated to or 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 Article 4, Section C (1) a., is satisfied.

8. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. The Floodplain Administrator shall maintain a record of all floodproofing certifications that includes the specific elevation (in relation to mean sea level) to which each structure has been floodproofed.

9. **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:
 - d) A minimum of two 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.

 - e) The bottom of all openings shall be no higher than one foot above grade.

 - f) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

8. **Manufactured Homes -**

- d) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. 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.

- e) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) 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 lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- f) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - 3) The lowest floor of the manufactured home is at or above the base flood elevation, or

 - 4) Elevated on reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement support the manufactured home chassis.

9. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- d) Be on the site for fewer than 180 consecutive days,
- e) Be fully licensed and ready for highway use, or
- f) Meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) 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.

10. Accessory Structure –

- y) Structure is low valued and represents a minimal investment.
- z) Structure shall be small and not exceed 600 square feet in size.
- aa) Structure shall be unfinished on the interior.
- bb) Structure can be used only for parking and limited storage.
- cc) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
- dd) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.
- ee) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
- ff) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
- gg) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.

- hh) Floodway requirements must be met in the construction of the structure.
- ii) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
- jj) Structure is to be located so as not to cause damage to adjacent and nearby structures.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

11. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of these regulations.
12. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of these regulations.
13. 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 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of these regulations.
14. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
15. 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.

**SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING
(AO/AH ZONES)**

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flows may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

5. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
6. All new construction and substantial improvements of **non-residential** structures;
 - c) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - d) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
7. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1) a., are satisfied.
8. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways - located within areas of special flood hazard established in Article 3, Section B, 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:

1. 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.
2. **If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.**
3. 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 **first** applies for a conditional FIRM and floodway revision through FEMA.

SECTION F. SEVERABILITY

If any section, clause, sentence, or phrase of these Regulations (or ordinance) is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of these Regulations (or ordinance as the case may be).

PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ {Add amount of penalty here} or imprisoned for not more than {Add number of days here} days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the {add name of community here} from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION

It is hereby found and declared by The Floodplain Board of **{Add Community Name Here}** that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that these regulations become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

ADOPTED; _____

(Chairman of Floodplain Board)

PASSED: _____

(Date)

I, the undersigned, _____, do hereby certify that the above is

a true and correct copy of an ordinance duly adopted by the **{Add Community Name Here}**, at a regular meeting duly convened on

_____.

(Date)

(Secretary of Floodplain Board)

(SEAL)

APPENDIX “E”

Resolution for adopting and approval of Ordinance with
certifications

City- Part 1

County – Part 2

City Part 1

IN THE MATTER of approval of _____)

Resolution No. _____

_____)
Floodplain Management Regulations)

Adopted by the _____)

Date _____

_____) **city/town**

Floodplain Board _____)

RESOLUTION

WHEREAS, certain areas within the unincorporated areas of _____ City/Town, _____ County, Oklahoma, are subject to periodic flooding from rivers and streams causing serious damage to properties within these areas; and,

WHEREAS, relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968 upon participation by the community in the National Flood Insurance Program; and,

WHEREAS, it is the intent of the _____ City/Town Council for _____ City/Town, _____ County to participate in the National Flood Insurance Program; and,

WHEREAS, the City/Town Council of _____ City/Town established the _____ City/Town Floodplain Board and the Floodplain Board adopted floodplain regulations in accordance with 82 O.S. 1981, §§1604 and 1608 to participate in said program.

NOW, THEREFORE, BE IT RESOLVED that the Floodplain Board of _____ City/Town, Oklahoma, does hereby approve the floodplain regulations previously adopted by the _____ City/Town Floodplain Board.

PASSED AND APPROVED this ____ day of _____, 20 ____.

Name and Title

Name and Title

Name and Title

(SEAL)

STATE OF OKLAHOMA)

)

CITY/TOWN OF _____)

COUNTY OF _____)

I, the undersigned, the duly qualified and acting Clerk of _____, City/Town, Oklahoma hereby certify that the above and foregoing is a true, correct and complete copy of the Resolution duly approved by the City/Town Council for _____, _____ County and of the proceedings of the Board in the adoption of said Resolution on the date therein set out as shown by the records of my office.

I further certify that the Oklahoma Open Meeting Act was complied with in all respects.

WITNESS my hand and the seal of said _____,
_____ County this ____ day of _____, 20__.

City/Town Clerk

(SEAL)

County – Part 2

BEFORE THE _____ COUNTY

FLOODPLAIN BOARD

IN THE MATTER of adoptions of)
Floodplain Management)
Regulations And Establishment)
of Flood Hazard Boundaries)

Resolution No. _____

Date _____

RESOLUTION

WHEREAS, certain areas within the unincorporated areas of _____
County, Oklahoma, are subject to periodic flooding from rivers and streams
causing
serious damage to properties within these areas: and,

WHEREAS, relief is available in the form of federally subsidized flood
insurance
as authorized by the National Flood Insurance Act of 1968 upon participation by
the
county in the National Flood Insurance Program; and,

WHEREAS, the _____ County Floodplain Board is
Authorized to adopt, administer, and enforce floodplain management
regulations to
reduce flood losses pursuant to 82 O. S. 1981, §§1601-1618, as amended.

NOW, THEREFORE, BE IT RESOLVED that the Floodplain Board of
_____ County, Oklahoma, hereby adopts and enacts the Floodplain
Damage Prevention Regulations as set forth in the attachment hereto.

PASSED AND APPROVED this _____ day of _____ 20____.



Chairman of the _____ County Floodplain Board
(County)

Secretary of the _____ County Floodplain Board
(County)

(Seal)

APPENDIX "F"
DEVELOPMENT PERMIT APPLICATION

DEVELOPMENT PERMIT APPLICATION

For Proposed Development on LANDS LOCATED IN FLOODPLAIN AREAS

INSTRUCTIONS

TO COMPLY WITH FLOODPLAIN MANAGEMENT REGULATIONS AND TO MINIMIZE POTENTIAL FLOOD DAMAGE, IF YOU ARE BUILDING WITHIN AN IDENTIFIED FLOOD HAZARD AREA, YOU MUST AGREE TO CONSTRUCT YOUR PROPOSED DEVELOPMENT IN ACCORDANCE WITH THE FOLLOWING SPECIAL PROVISIONS:

SPECIAL FLOODPLAIN PROVISIONS

1. For RESIDENTIAL structures, the lowest floor (including basement) must be elevated to or above the base flood elevation (100-year flood elevation) as delineated in this community's floodplain management regulations or ordinances. See provisions for manufactured homes in local regulations.

2. For NON-RESIDENTIAL structures, the lowest floor must be elevated to or above the base flood elevation, or floodproofed to withstand the flood depths, pressures, velocities, impact and uplift forces associated with the 100-year flood as delineated in this community's floodplain management regulations or ordinances.

3. For ALL STRUCTURES, the foundation and the materials used must be constructed to withstand the pressures, velocities, impact and uplift forces associated with the 100-year flood.

4. All utility supply lines, outlets, switches and equipment must be installed and elevated so as to minimize damage from potential flooding. Water and sewer connections must have automatic back flow devices installed.

5. You must submit certification on the attached form(s) from a REGISTERED ENGINEER, ARCHITECT or LAND SURVEYOR, that the floor elevation and/or floodproofing requirements have been met. Failure to provide the required certification is a violation of this permit.

6. Other Provisions — See attached list _____ None _____

AUTHORIZATION

I have read or had explained to me and understand the above special provisions for flood plain development. Authorization is hereby granted the permitting authority and their agents or designees, singularly or jointly, to enter upon the above-described property during daylight hours for the purpose of making inspections or for any reason consistent with the issuing

authority's floodplain management regulation. I further verify that the above information is true and accurate to the best of my knowledge and belief.

Signature of Applicant

Date

FLOODPLAIN DEVELOPMENT APPLICATION
(For Proposed Development in Floodplain Areas)

Date _____ Permit No _____

NOI Fee Collected: Yes _____ No _____ Amount _____

Applicant/Developer _____

Address _____

Telephone Number _____ Email Address _____

Contact Name _____

List Type and Purpose of Development _____

Located at _____

Flood Zone Type: _____

If property will be located in an identified Special Flood Hazard Area complete the following and require certified elevation of proposed lowest floor (including basement) & lowest adjacent grade.

Name of Community _____

NFIP Community No _____

Applicant Requests To:

- Construct Mine Construct Addition Remodel Elevate
- Drilling Demolish Add Fill Manufactured Housing (Placement)
- Storage (Equipment or Supplies)

Base Flood Elevation _____ Proposed Lowest Floor Elevation _____

Flood Map Effective Date _____

Community - Panel No. _____

Permit Fee _____ Has permit fee been collected? Yes No

Plans, specifications and elevation certificate filed by the applicant shall constitute by reference, a part of this permit.

FOR OFFICIAL USE ONLY

This application has been reviewed by _____

Print Name Here

Date: _____

Signature of Reviewer

This application is considered complete and complies with the local floodplain ordinance or set of regulations.

Are other local, state or federal permits required? Yes No If yes, list type(s)

APPENDIX "G"
Certificate of Fill Placement

Certificate of Fill Placement

PUBLIC BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average .35 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data and completing and reviewing the form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing this burden to: Information Collections Management, Federal Emergency Management Agency, 500 C. Street, S.W., Washington DC 20503.

Community Name

Property Name or Address

The Fill is: [] Existing [] Proposed

I hereby certify that fill placed on the property to raise the ground surface to or above the base (100-year) flood elevation in order to gain exclusion from a Special Flood Hazard Area (100-year floodplain) meets the criteria of Title 44 of the Code of Federal Regulations, Section 65.5(a)(6), listed below. For proposed fill, I hereby certify that it is designed in accordance with these criteria.

1. That the fill has been compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test method or an acceptable equivalent method for (check one of the following):

____ a. Fill pads prepared for the foundations of residential or commercial structures

____ b. Entire legally defined parcel (*Note: If the location of fill pads has not been determined, the fill over the entire legally defined parcel must be compacted to the above criteria.*)

Name (Please print or type)

Signature

Date Community Official's Title or Engineer's Seal/Registration No.

2. That fill slopes for granular materials are not steeper than one vertical on one-and-one-half horizontal (steeper slopes must be justified); and

3. That adequate erosion protection is provided for fill slopes exposed to moving floodwaters (*slopes exposed to flows with velocities of up to 5 feet per second (fps) during the 100-year flood must, at a minimum, be protected by a permanent cover of grass, vines, weeds or similar vegetation, slopes exposed to flows with velocities greater than 5 fps during the 100-year flood must, at a minimum, be protected by appropriately designed stone, rock, concrete or other durable products.*)

Name (Please print or type)

Signature

Date

Community Official's Title or Engineer's Seal/Registration No.

APPENDIX "H"

Variance Checklist

VARIANCE CHECKLIST

- Yes No
 1. If property for which variance is request is located within the floodway, has sufficient technical data been provided which substantiates that there will be NO INCREASE IN FLOOD LEVELS during the base floor (100-year) discharge?
- 2. Is size of lot on which new construction or substantial improvement will be built one-half acre or less contiguous to and surrounded by lost with existing structures constructed below the base flood level? (NOTE: Variances generally are limited to lot sizes of less than one-half acre. Deviations from this limitation may occur only if the technical justification increases as the lot size increases beyond one-half acre.)
- 3. Hass good and sufficient cause been shown?
- 4. Has it been determined that failure to grant the variance would result in exceptional hardship to applicant?
- 5. Has it been determined that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances?
- 6. If a variance is issued, has it been determined that the variance is the minimum necessary considering the flood hazard, to afford relief?
- 7. If a variance is granted, has applicant been notified, IN WRITING, that:
 - a. Issuance of a variance to construct a structure below the base flood level will result in increased flood insurance premium rates up to amounts as \$25 for 4100 of coverage.....
 - b. Construction below the base flood level increases risk to life and property.....

If the answers to any of the above is "NO" with the exception of Number 2, the request for a variance should be denied. (See Number 2. Note above).

FEMA may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, may take appropriate action

Refer to National Flood Insurance Program NFIP Regulation 60.6 for additional information or contact a FEMA Representative.

APPENDIX "I"
Sample Agenda

Sample Agenda

FLOODPLAIN BAORD

DATE

PLACE

TIME

Call to Order

Roll Call of Members

Approval of Minutes from previous meeting

Approval of Treasurers Report

Public Hearings Be specific as defined in Public Notice. Allow Staff Report. Allow each citizen a time to speak.

Action Items listed separate stating the kind of action needed specifically defined. For example:

Discussion and Possible Action to.....

Old Business

New Business

Adjournment

APPENDIX "J"

Sample Minutes

SAMPLE MINUTES

FLOODPLAIN BOARD

MINUTES

DATE, TIME. PLACE

Members Present:

Staff Present:

Members Absent:

Call to Order (Date and Time)

Approval of Minutes of _____

Motion to approve/deny/continue. _____ Moves _____ Seconded

VOTING FOR: (list names)

VOTING AGAINST: (list names)

ABSTAINING: (list names)

MOTION PASSED/DENED

PUBLIC HEARINGS (read agenda item)

Staff report.

Comments of citizens

Discussion of Board

Motion to approve/deny/continue. _____ Moves _____ Seconded

VOTING FOR: (list names)

VOTING AGAINST: (list names)

ABSTAINING: (list names)

MOTION PASSED/DENED

4. ACTION ITEMS

Staff report.

Comments of citizens

Discussion of Board

Motion to approve/deny/continue. _____ Moves _____ Seconded

VOTING FOR: (list names)

VOTING AGAINST: (list names)

ABSTAINING: (list names)

MOTION PASSED/DENED

5. OLD BUSINESS

6. NEW BUSINESS

7. ADJOURNMENT

APPROVAL: (Signed by all board members participating)

DATE: (date approved)

APPENDIX "K"
Sample Sign-In Sheet

APPENDIX "L"
Staff Report

STAFF REPORT

1. List Item Number as it appears on the Agenda and with what action is to be taken.
2. Give a background concerning the item.
3. List the Ordinances, Resolutions, and Policy that apply to the Item.
4. Review how staff members evaluated the item and share their comments.
5. Give a Recommendation and State the Reasons.
6. Attach all maps, ordinances, resolutions, documents, etc that were used to make a recommendation.
7. Be prepared to answer questions.

APPENDIX "M"

Sample Public Notice

SAMPLE NOTICE

(Published in (newspaper's name), (city or town) Oklahoma on _____, 20__.)

NOTICE OF PUBLIC HEARING

The public is hereby given notice there will be a public hearing at _____ on _____ 20__, at the _____, _____ County, _____, Oklahoma.

In accordance with O.S. 1989, Title 82, Section 1610B, the purpose of the hearing will be to allow _____ residents and other interested citizens the opportunity to voice opinions and views regarding proposed rules and regulations as developed by the (name of community), Floodplain Board, governing land use, building of structures, and construction in unincorporated areas of _____ County.

A copy of the flood damage prevention regulation may be examined and inspected at _____ during the business hours _____ a.m. to _____ p.m. on any business day. All interested persons are encouraged to attend and make known their opinions.

Dated the _____ day of _____, 20__ at _____, _____, Oklahoma.

APPENDIX "N"
Open Meeting Act Requirements

**Notice and Open Meeting Act Requirements for Adopting
Floodplain Management Regulations for Post-1980 Communities**

1. **Review Current Ordinance or Regulations** – OWRB staff receives request for assistance for ordinance review from community, or staff conducts a CAC or CAV.
2. **Ordinance/Regulations Review** – OWRB staff reviews existing floodplain regulations for provisions that may not be compliant with current NFIP Standards 44 CFR 59.1- 60.3(a), (b), (c) or (d), and the Oklahoma Floodplain Management Act. Potential problems include improper adoption/approval process, definitions lacking, incorrect or incomplete reference to the current map listed in regulations, floodplain board established incorrectly, lack of severability clause or penalty clause, Open Meeting Act compliance, etc. If problems are apparent, the floodplain administrator coordinates with the Oklahoma Water Resources Board (OWRB) State Floodplain Coordinator to begin the process of updating the floodplain regulations as necessary or appropriate.
3. **Notice of public hearing 30 days in advance** – After the local Floodplain Board is satisfied with the proposals to amend the regulations, the local Floodplain Board provides notice of public hearing on proposed amendments.
 - (a) Notice of hearing on proposed amendments to floodplain regulations, including an amendment to incorporate the current flood map by reference, must be published in a newspaper of general circulation in the county at least 30 days prior to a hearing on proposed amendments
 - (b) Notice must be separately provided to the OWRB at least 30 days in advance of the public hearing
 - (c) The notice must include the time and place of the hearing, along with a general statement as to the proposed action, such as the following suggested statement:

NOTICE OF PUBLIC HEARING

The public is hereby given notice there will be a public hearing at _____ on 200__, at the _____, _____ County, _____, Oklahoma. In accordance with Title 82, Section 1610 of the Oklahoma Statutes. The purpose of the hearing will be to allow interested persons the opportunity to present comments regarding the proposed regulations developed by the _____ Floodplain Board. Such regulations govern land use, building of structures, and construction in the (incorporated area of City/Town of _____/unincorporated area of _____ County). A copy of the proposed floodplain regulations, including the current flood map, can be examined and inspected at the _____ during the business hours of _____ a.m. to _____ p.m. on any business day. All interested persons are encouraged to attend and present their comments. Dated this ____ day of __, 200__.

4. **Open Meeting Act notice of public meeting** – Because the local Floodplain Board is a “public body”, and a gathering of its members to conduct business is a “meeting”, the Open Meeting Act applies. Note the difference in “public *hearing*” and “public *meeting*” in this context.
 - (a) Regular meeting - If the hearing on amending floodplain regulations, including adopting new maps, is to be conducted at a “regularly scheduled meeting” of the local Floodplain Board, notice of “regularly scheduled” meetings of county public bodies must be given to the county clerk by

December 15 for meetings scheduled during the following calendar year, so that should have been taken care of in December of the previous year. If not, a “special meeting” needs to be scheduled.

(b) Special meeting - If the hearing is to be conducted during a “special meeting” of the local Floodplain Board (which is the typical situation), in addition to 30 days notice of public *hearing* published in the newspaper and provided to the OWRB, notice of the public *meeting* must be given to the County Clerk at least 48 hours prior to the “special meeting”

(c) Agenda posting and contents – Separate from providing notice of the public hearing in a newspaper and OWRB, and separate from providing notice of the regular or special meeting to the county clerk for a county Floodplain Board or municipal clerk for a municipal Floodplain Board, the Open Meeting Act requires the posting of the agenda of the public meeting at least 24 hours prior to the meeting. The 24 hours excludes Saturdays, Sundays and state legal holidays. A meeting agenda should include a specific item about the hearing: for example: “Public Hearing and Consideration of Adoption of Amendments to Floodplain Regulations, Including Incorporation of New Flood Insurance Rate Map panels prepared by the Federal Emergency Management Agency”. It may not be specific enough for the agenda item to simply say “Update/Revise Floodplain Management Regulations”.

5. **Hearing, Public Comments, Minutes** – As part of the public meeting during the agenda item as posted (see step 4 above), the proposed amendments to the floodplain regulations, including any new maps, are presented to public. Public comments, if any, are received. If the local Floodplain Board decides to adopt the amendments to the regulations as proposed or as may be revised as a result of comments at this meeting, minutes of the meeting must include the recorded vote of Floodplain Board members.

6. **Separate Floodplain Board meeting** – If the local Floodplain Board decides to delay taking a vote on the proposed amendments during the meeting at which the public hearing is held, the local Floodplain Board must schedule another public meeting to consider adoption of the amendments. Open Meeting Act requirements about providing notice of the meeting and posting of the agenda, including a specific item on consideration of proposed amendments to floodplain regulations, apply again. Minutes of this second meeting must include the recorded vote of the Floodplain Board members on the agenda item about adoption of the amendments.

7. **Copy of adopted floodplain regulations to OWRB** – With 15 days after the public meeting at which the proposed amendments to the floodplain regulations are adopted by the local Floodplain Board, the Floodplain Administrator shall file a copy of the adopted floodplain regulations with the OWRB.

8. **Governing Body must approve the adopted regulations** - At a regularly scheduled meeting or at a special meeting of the Board of County Commissioners, City Council or Board of Trustees (as the case may be), the governing body must approve the floodplain regulations that were adopted by the local Floodplain Board. This approval can be shown in the form of a Resolution to Approve Amendments. The Open Meeting Act requirements separately apply to the governing body.

9. **Copies of approved adopted regulations** - Copies of Resolution to Approve Amendments that show approval of the adopted floodplain regulations incorporating the amendments, including any new FIRM panels by reference to panel number and date, are then filed with the local Floodplain Administrator’s office, the County Clerk or Municipal Clerk as the case may be, and the OWRB.

10. **OWRB Reviews & Forwards Amendments to FEMA** - The amended floodplain regulations received by the OWRB for one last review to ensure compliance with state statutes and FEMA NFIP regulations, staff updates the Community Information System data base and then forwards to the FEMA Regional Office.

APPENDIX "O"
Elevation Certificate

ELEVATION CERTIFICATE

Important: Read the instructions on pages 1-8.

SECTION A - PROPERTY INFORMATION			For Insurance Company Use:
A1. Building Owner's Name			Policy Number
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.			Company NAIC Number

City State ZIP Code

A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)

- A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) _____
- A5. Latitude/Longitude: Lat. _____ Long. _____ Horizontal Datum: NAD 1927 NAD 1983
- A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.
- A7. Building Diagram Number _____
- A8. For a building with a crawl space or enclosure(s), provide
- a) Square footage of crawl space or enclosure(s) _____ sq ft
 - b) No. of permanent flood openings in the crawl space or enclosure(s) walls within 1.0 foot above adjacent grade _____
 - c) Total net area of flood openings in A8.b _____ sq in
- A9. For a building with an attached garage, provide:
- a) Square footage of attached garage _____ sq ft
 - b) No. of permanent flood openings in the attached garage walls within 1.0 foot above adjacent grade _____
 - c) Total net area of flood openings in A9.b _____ sq in

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP Community Name & Community Number		B2. County Name		B3. State	
B4. Map/Panel Number	B5. Suffix	B6. FIRM Index Date	B7. FIRM Panel Effective/Revised Date	B8. Flood Zone(s)	B9. Base Flood Elevation(s) (Zone AO, use base flood depth)

- B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9.
 FIS Profile FIRM Community Determined Other (Describe) _____
- B11. Indicate elevation datum used for BFE in Item B9: NGVD 1929 NAVD 1988 Other (Describe) _____
- B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No
 Designation Date _____ CBRS OPA

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

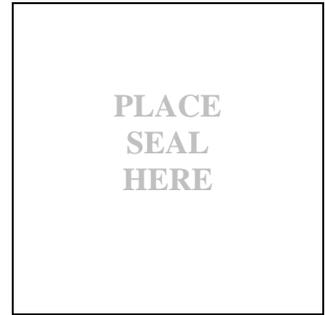
- C1. Building elevations are based on: Construction Drawings* Building Under Construction* Finished Construction
 *A new Elevation Certificate will be required when construction of the building is complete.
- C2. Elevations – Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO. Complete Items C2.a-g below according to the building diagram specified in Item A7.
 Benchmark Utilized _____ Vertical Datum _____
 Conversion/Comments _____
- Check the measurement used.
- a) Top of bottom floor (including basement, crawl space, or enclosure floor) _____ feet meters (Puerto Rico only)
 - b) Top of the next higher floor _____ feet meters (Puerto Rico only)
 - c) Bottom of the lowest horizontal structural member (V Zones only) _____ feet meters (Puerto Rico only)
 - d) Attached garage (top of slab) _____ feet meters (Puerto Rico only)
 - e) Lowest elevation of machinery or equipment servicing the building _____ feet meters (Puerto Rico only)
 (Describe type of equipment in Comments)
 - f) Lowest adjacent (finished) grade (LAG) _____ feet meters (Puerto Rico only)
 - g) Highest adjacent (finished) grade (HAG) _____ feet meters (Puerto Rico only)

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. *I certify that the information on this Certificate represents my best efforts to interpret the data available.*

I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Check here if comments are provided on back of form.



Certifier's Name		License Number	
Title	Company Name		
Address	City	State	ZIP Code
Signature	Date	Telephone	

IMPORTANT: In these spaces, copy the corresponding information from Section A.	For Insurance Company Use:
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.	Policy Number
City State ZIP Code	Company NAIC Number

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments

Signature _____ Date _____

Check here if attachments

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zones AO and A (without BFE), complete Items E1-E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1-E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
 - a) Top of bottom floor (including basement, crawl space, or enclosure) is _____. feet meters above or below the HAG.
 - b) Top of bottom floor (including basement, crawl space, or enclosure) is _____. feet meters above or below the LAG.
- E2. For Building Diagrams 6-8 with permanent flood openings provided in Section A Items 8 and/or 9 (see page 8 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is _____. feet meters above or below the HAG.
- E3. Attached garage (top of slab) is _____. feet meters above or below the HAG.
- E4. Top of platform of machinery and/or equipment servicing the building is _____. feet meters above or below the HAG.
- E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? Yes No Unknown. The local official must certify this information in Section G.

SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge.*

Property Owner's or Owner's Authorized Representative's Name _____

Address _____ City _____ State _____ ZIP Code _____

Signature _____ Date _____ Telephone _____

Comments _____

Check here if attachments

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8. and G9.

- G1. The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2. A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3. The following information (Items G4.-G9.) is provided for community floodplain management purposes.

G4. Permit Number	G5. Date Permit Issued	G6. Date Certificate Of Compliance/Occupancy Issued
-------------------	------------------------	---

G7. This permit has been issued for: New Construction Substantial Improvement

G8. Elevation of as-built lowest floor (including basement) of the building: _____. feet meters (PR) Datum _____

G9. BFE or (in Zone AO) depth of flooding at the building site: _____. feet meters (PR) Datum _____

Local Official's Name _____ Title _____

Community Name

Telephone

Signature

Date

Comments

Check here if attachments

Building Photographs

See Instructions for Item A6.

			For Insurance Company Use:
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.			Policy Number
City	State	ZIP Code	Company NAIC Number
<p>If using the Elevation Certificate to obtain NFIP flood insurance, affix at least two building photographs below according to the instructions for Item A6. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." If submitting more photographs than will fit on this page, use the Continuation Page, following.</p>			

Building Photographs

Continuation Page

	For Insurance Company Use:
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.	Policy Number
City State ZIP Code	Company NAIC Number
If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View."	

APPENDIX "P"

Oklahoma Floodplain Management Act

Floodplain Management Act

82 O.S. §§1601-1618

§1601. Short title.

Chapter 23 of this title shall be known and may be cited as the Oklahoma Floodplain Management Act.

§1602. Purpose of act.

A. The State of Oklahoma recognizes the personal hardships and economic distress caused by flood disasters; in particular, the loss of life from floods, the physical and emotional impact of flooding on individuals and communities, public and private property damage and disruption, the increased cost for disaster relief and the need for preservation and restoration of the natural resources and functions of floodplains. Oklahoma also recognizes that it has become uneconomical for private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing these problems, Congress enacted the National Flood Insurance Act of 1968, which, among other things, requires the development of a unified national program for floodplain management which sets out a framework for national goals towards which agencies at all levels of government and in the private sector can work each within its own mission and role.

B. The purpose of the Oklahoma Floodplain Management Act pursuant to the most current version of a unified program for floodplain management is to:

1. Protect the natural and beneficial functions of the floodplain, to reduce damage and disruption to property from floods, to reduce costs of disaster relief and to reduce injury and loss of life from floods;
2. Assist state agencies, local government and the private sector in developing local floodplain management programs and in obtaining training and funding therefore; and

3. Procure flood insurance for those citizens that desire to participate in this federal program.

§1603. Definitions.

As used in the Oklahoma Floodplain Management Act:

1. "Area of jurisdiction" means:
 - a. all of the lands within an incorporated town or city, for a municipality,
 - b. all of the unincorporated areas of the county, for a county, or
 - c. all property owned or operated by the state, for the state;
2. "Board" means the Oklahoma Water Resources Board;
3. "Dwelling unit" means a place of residence and may be a single or multiple-dwelling building;
4. "Flood" or "flooding" means general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers or any other inland waters;
5. "Floodplain" means the land adjacent to a body of water which has been or may be covered by flooding, including, but not limited to, the one-hundred-year flood;
6. "Floodplain board" means an administrative and planning board, for floodplain management, of a county, a municipality or the state or the planning commission of a municipality or a county if so designated by the governing body of the municipality or county;
7. "Floodplain regulations" means the codes, ordinances and other regulations relating to the use of land and construction within the channel and floodland and construction within the channel and floodplain areas including, but not limited to, zoning ordinances, platting regulations, building codes, housing codes, setback requirements and open area regulations;

8. "Floodway" means the channel of a stream, watercourse or body of water and those portions of floodplains which are reasonably required to carry and discharge the floodwater or floodflow of any river or stream;
9. "One-hundred-year flood" means a flood which has a one percent (1%) chance of occurring each year, based upon the criteria established by the Oklahoma Water Resources Board; and
10. "Program" means the overall national flood insurance program authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4128) as amended.

§1604. County and municipal floodplain boards – Land use rules and regulations.

A. To allow participation in the program, the Oklahoma Water Resources Board, boards of county commissioners and municipal governing bodies are authorized to establish floodplain board for their respective area of jurisdiction which may adopt, administer and enforce floodplain management rules and regulations, for the purpose of:

1. The delineation of floodplain and floodways;
2. The preservation of the capacity of the floodplain to carry and discharge regional floods;
3. The minimization of flood hazards;
4. The establishment and charging of reasonable fees, not to exceed Five Hundred Dollars (\$500.00), for services provided by the Board, county commissioners and municipalities in the administration of their responsibilities pursuant to the Oklahoma Floodplain Management Act.
5. The regulation of the use of land in the floodplain; and
6. The protection of the natural and beneficial functions of the floodplain, reducing damage to property from floods, reducing injury and loss of life from floods, and allowing communities to be eligible for flood insurance.

B. The rules and regulations shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

C. The rules and regulations shall be approved by the Oklahoma Water Resources Board, the county or the municipality, as the case may be, by appropriate order, resolution or ordinance.

§1605. County, municipal and state floodplain board – Composition – Term – Compensation.

A. 1. A county floodplain board shall be composed of five (5) members to be appointed by the board of county commissioners.

2. All the members of the board shall be residents of the county and shall own or operate real property within the unincorporated area of the county;

3. Two members shall be appointed for terms of two (2) years, two members shall be appointed for terms of four (4) years and one member shall be appointed for a term of six (6) years. Thereafter, all appointments shall be made for terms of six (6) years.

4. All members shall serve without compensation. Members may be removed by the board of county commissioners for cause after a public hearing for that purpose.

5. Vacancies shall be filled by additional appointments for the unexpired term only.

B. 1. A municipal floodplain board shall be composed of five (5) members to be appointed by the municipal governing body. All the members of the board shall be residents of the municipality.

2. Membership of floodplain boards in existence prior to the effective date of this act shall remain as currently constituted. Membership for boards created subsequent to the effective date of this act shall consist of two members appointed for terms of two (2) years, two members appointed for terms of four (4) years and one member appointed for a term of six (6) years. Thereafter, all appointments shall be made for terms of six (6) years.

3. All members shall serve without compensation.

4. Members may be removed by the municipal governing body for cause after a public hearing for that purpose.

5. Vacancies shall be filled by additional appointments for the unexpired term only.

C. A state floodplain board shall be composed of the members of the Oklahoma Water Resources Board. All members shall serve without additional compensation.

§1606. Establishment and delineation of floodplains and one-hundred-year flood elevations for Oklahoma.

The Oklahoma Water Resources Board shall develop, adopt and promulgate criteria and rules for aiding the floodplain boards in the establishment and delineation of the floodplains and the one-hundred-year flood elevations for Oklahoma.

§1607. Floodplain definitions and one-hundred-year elevations to be submitted.

The floodplain boards shall delineate and submit to the Oklahoma Water Resources Board all floodplain definitions and one-hundred-year flood elevations within their respective area of jurisdiction, using methods consistent with the criteria and rules developed by the Board.

§1608. Floodplain regulations – Requirements – Contents

All floodplain boards that choose to participate in the program shall adopt floodplain regulations, which shall conform with the requirements necessary to establish eligibility and to maintain participation in the program and shall include the following:

1. Regulations for any platting of land in floodplains, construction of dwelling units and commercial or industrial structures in floodplains, and all other construction in the floodplains, which may divert, retard or obstruct floodwater and threaten public health, safety and welfare;
2. Regulations which establish minimum flood protection elevations and flood damage prevention requirements for use of structures and facilities which are located in a floodplain or are vulnerable to flood damage. Regulations adopted under this section are to be in accordance with any applicable state and local laws, regulations and ordinances.
3. Regulations which provide for coordination by the floodplain board with all other interested and affected political subdivisions and state agencies. The regulations of a floodplain board shall not apply to the use of usual farm buildings

for agricultural purposes, the planting of agricultural crops or the construction of farm ponds; and

4. Counties and municipalities that choose to participate in the program and utilize a floodplain manager are encouraged to attend the floodplain development management class offered by the National Flood Insurance Program and any additional annual continuing education classes offered by the Oklahoma Water Resources Board.

§1609. Cooperative agreements for delineation of floodplains and adoption of regulations.

Floodplain boards may enter into cooperative agreements pursuant to the "Interlocal Cooperation Act" for the delineation of floodplains and adoption of regulations within the floodplains.

§1610. Promulgation floodplain rules – Procedure.

A. Floodplain rules enacted pursuant to the Oklahoma Floodplain Management Act shall only be promulgated by the Oklahoma Water Resources Board in accordance with the Administrative Procedures Act.

B. Floodplain regulations enacted pursuant to the Oklahoma Floodplain Management Act shall only be adopted by the county or municipal floodplain boards adopted by the county or municipal floodplain boards after a public hearing at which parties in interest and other citizens have an opportunity to be heard. At least thirty (30) days prior to the hearing, a notice of the time and place of hearing shall be published in a newspaper of general circulation regularly published nearest the area of jurisdiction.

§1611. Redefining floodplain upon completion of flood control protective work.

Within one hundred eighty (180) days after the completion of construction of any flood control protective works, the floodplain board in its area of jurisdiction shall redefine the floodplain as altered by the works. The new floodplain definition and one-hundred-year flood elevations shall then be submitted to the Oklahoma Water Resources Board

§1612. Construction or development in floodplain area prohibited – Exceptions.

A. After a floodplain board has submitted to the Oklahoma Water Resources Board definitions of all floodplains and one-hundred-year flood elevations within its area of jurisdiction, all platting of land, all construction of dwelling units or commercial or industrial structures, and all future development within the delineated floodplain area is prohibited unless:

1. Floodplain regulations have been adopted pursuant to the Oklahoma Floodplain Management Act for such areas and are in full force and effect;
2. Prior to regulations having been adopted, a special permit is granted by the floodplain board; or
3. A special permit is granted by the state floodplain board, if development or construction is to be on lands owned or held in trust by the state. provided, that notice of such construction or development must be afforded to all concerned governmental entities within thirty (30) days of the decision to undertake such construction or development.

B. Special permits authorized by subsection A of this section may be issued when the applicable floodplain board determines that construction or development in the floodplain in question is not a danger to persons or property. In making its determination, the floodplain board shall comply with Section 1610 of this title.

§1613. Existing prior use may continue – Conditions.

Any use that exists prior to May 13, 1980, which does not meet the minimum standards specified and authorized by the Oklahoma Floodplain Management Act may continue. However, unless brought into compliance with the minimum standards set forth in regulations adopted pursuant to the Oklahoma Floodplain Management Act such uses may be not substantially altered, enlarged or added to.

§1614. Business needs to be considered in promulgating floodplain rules and preparing floodplain regulations.

The Oklahoma Water Resources Board in promulgating rules pursuant to Section 1606 of this title and floodplain boards in preparing floodplain management regulations shall give due consideration to the needs of an industry, including agriculture, whose business requires that it be located within a floodplain.

§1615. Variances.

A. The floodplain board may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act upon presentation of adequate proof that compliance with the local floodplain regulations adopted pursuant to the Oklahoma Floodplain Management Act will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.

B. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

C. The floodplain board shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted. The floodplain board shall conduct a hearing which complies with all requirements of the Oklahoma Floodplain Management Act for public notice. In no case shall variances be effective for a period longer than twenty (20) years. A copy of any variance issued shall be sent to the Oklahoma Water Resources Board within fifteen (15) days of issuance.

§1616. Appeals.

A. Appeals of any decision of the Oklahoma Water Resources Board shall be in accordance with the Administrative Procedures Act.

B. Appeals of the decision of a county or municipal floodplain board shall be taken to the board of adjustment for the area of jurisdiction involved in the appeal or to the governing body of the county or municipality where no board of adjustment exists. Appeals may be taken by any person aggrieved or by a public officer, department, board or bureau affected by any decision of the floodplain board in administering the floodplain board's regulations. The appeal shall be taken within a period of not more than ten (10) days, by filing written notice with the appellant body and the floodplain board, stating the grounds thereof. An appeal shall stay all proceedings in furtherance of the action appealed from unless the floodplain board from which the appeal is taken shall certify to the appellant of body that by reason of facts stated in the certificate a stay

would, in its opinion, cause imminent peril to life or property. The appellant body shall have the following powers and duties:

1. To hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision or determination made by the floodplain board in the enforcement of the floodplain board's regulations.
2. In exercising its powers, the appellant body may reverse or affirm wholly or partly, or may modify the order, requirement, decision of determination as ought to be made, and to that end shall have all the powers of the floodplain board from which the appeal is taken.
3. In acting upon any appeal, the appellant body shall apply the principals, standards and objectives set forth and contained in all applicable regulations and plans adopted.

§1617. New structures, fills, excavations or other uses prohibited without written authorization – Violations.

A. No new structure, fill, excavation or other floodplain use that is unreasonably hazardous to the public or that unduly restricts the capacity of the floodway to carry and discharge the regional flood shall be permitted without securing written authorization from the floodplain board in which the floodplain is located.

B. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.

§1618. Application of Act.

The provisions of this act shall not apply to those counties, municipalities or other agencies who are in compliance with federal floodplain regulations and are participating in the program prior to the effective date of this act.

§1619. Repealed by Laws 1989, c. 154, §2, operative July 1, 1989.