

Ottawa County Floodplain Regulation 2010

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OTTAWA COUNTY, OKLAHOMA FLOODPLAIN MANAGEMENT REGULATIONS EFFECTIVE
AUGUST 5, 2010

Article I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A: STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has, in 82 O.S. Section 1601-1618, as amended, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, Ottawa County and the Ottawa County Floodplain Management Board hereby adopts the following regulations, to be effective on and after August 5, 2010.

SECTION B: FINDINGS OF FACT

1. The flood hazard areas of Ottawa County, Oklahoma 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, among other causes, 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, flood proofed 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:

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, these regulations use the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities, frequency and duration;
2. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development, which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Article 2

DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to give them the meaning they have in common usage and to give these regulations their 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. (Examples of accessory structures include but are not limited to garages and storage sheds).

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.

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 base flood or 1% chance flood.

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

“BFE” –Means base flood elevation

“CFR”-Means Code of Federal Regulations

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.

DEVELOPMENT PERMIT- a permit issued by the Ottawa County Floodplain Administrator which authorizes development in a special flood hazard area in accordance with these regulations.

ELEVATED BUILDING – means a non basement building, in the case of a building in Zones, AE, A, and X, to have the top of the elevated floor-elevated to two feet or more above base flood elevation, by means of pilings, columns (posts and piers), adequately anchored so as not to impair the structural integrity of during a flood up to the magnitude of the base flood. In the case of Zones AE, A, and X, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

ENCLOSURE - means any structure of new construction or substantial improvement, with or without a roof, which has one or more walls or fences that are primarily used for any purpose other than as a residence. By way of example, and not intended to be all-inclusive, an enclosure could be a garage, shed, barn, or storage facility.

EXISTING CONSTRUCTION – means, 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 structure(s)”.

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 Ottawa County Floodplain Management Regulations.

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).

“FEMA” means the Federal Emergency Management Agency.

FLOOD OR FLOODING – means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) – means an official map of Ottawa County, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the Ottawa County.

FLOOD INSURANCE STUDY – is the official report provided by FEMA for Ottawa County which contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.

“FLOODPLAIN ADMINISTRATOR”- means a person accredited by the OWRB and designated by the Ottawa County Floodplain Management Board to administer and implement laws, ordinances and regulations relating to the management of floodplains.

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

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 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 – mean zoning codes and ordinances, subdivision regulations, building codes, health regulations, special purpose regulations and ordinances (such as a floodplain, grading and erosion control regulations and ordinances) 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 PROOFING – means any combination of structural and non-structural additions, changes or adjustments to structures which eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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 Ottawa County 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.

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. A floodway is located within areas of special flood hazard established in Article III, Section B. A floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles.

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 shipbuilding 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:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National register;
2. 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;
3. 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
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or;
 - b. 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 of vehicles; building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of Title 44 CFR.

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 PART 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 1988 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. “New construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by the Ottawa County Floodplain Management Board 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 floodplain management regulations adopted by the Ottawa County Floodplain Management Board.

PERSON-For purposes of this Regulation, the term “person” or “persons” shall mean any person or persons, corporation, partnership, boards, governmental entity, authority, trust or other legal entity of any sort, or any combination thereof.

RECREATIONAL VEHICLE – means a vehicle which is;

- (1) Built on a single chassis.
- (2) 400 square feet or less when measured at the largest horizontal projections.
- (3) Designed to be self-propelled or permanently towable by a light duty truck, and
- (4) 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 (Public Law 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/or 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:

- (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 will not preclude the structure’s continued designation of a “historic structure.”

VARIANCE - is a grant of relief by the Ottawa County Floodplain Management Board to a person from terms of these regulations 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 Title 44 CFR.)

VIOLATION – means the failure of a structure or other development to be fully compliant with these Ottawa County Floodplain Management Regulations.

WATER SURFACE ELEVATION – means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Article 3
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 unincorporated areas of Ottawa County, Oklahoma.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, “The Flood Insurance Study for Ottawa County Oklahoma and Incorporated Areas” , dated August 5, 2010, with accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of these regulations. These regulations shall go into effect on August 5, 2010.

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 any other regulations, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of these regulations, 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 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 with such areas will be free from flooding or flood damages. These regulations shall not create liability of the part of Ottawa County or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder. Each applicant for a Development Permit or a Variance shall sign a Waiver exempting Ottawa County, The Ottawa County Floodplain Management Board, the Ottawa County Floodplain Administrator and their employees from any liability incurred.

Article 4
ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Ottawa County Floodplain Management Board shall designate the Ottawa County Floodplain Administrator to administer and implement the provisions of these regulations and other appropriate sections of National Flood Insurance Program regulations in Title 44 CFR 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. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.
2. Review permit applications to determine whether the proposed building sites, including the placement of manufactured homes, to be reasonably safe from flooding.
3. Review and approve or deny all applications for development permits required by these regulations.
4. Review proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
5. Make the necessary interpretation 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).
6. Notifying, in riverine situations, adjacent communities and the OWRB 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 FEMA.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data contemplated by Article 3, Section B, has not been provided by FEMA, the Floodplain Administrator shall obtain, review and reasonably utilize base flood elevation data and floodway data available from any Federal, State, or any other source, in order to administer the provisions of Article 5.

9. When a floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted with Zone AE on the Ottawa County 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 Zone AE in Ottawa County.
10. After a disaster or other type of damage occurrence to structures in the Ottawa County unincorporated areas, the Floodplain Administrator will determine if any residential and/or non-residential structures & manufactured homes have been substantially damaged and therefore, enforce the substantial improvement requirement.
11. Maintain a record of all actions involving an appeal from a decision of the Ottawa County Floodplain Management Board.
12. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.

SECTION C. PERMIT PROCEDURES

1. Application for a Development Permit and Waiver shall be fully completed, executed and presented to the Floodplain Administrator on forms furnished by the Administrator 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. Each applicant for a Development Permit shall sign a Waiver, in substantially the same form as that set out in the Form A, attached hereto and made a part hereof. **Issuance of a development permit in good faith shall not create liability on the part of Ottawa County, the Ottawa County Floodplain Board or the Ottawa County Floodplain Administrator, or any other officer or employee of Ottawa County in the event that flooding or flood damage does occur.** Additionally, the following information is required:
 - a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures; and
 - b. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Article 5, Section B (1) (b),(c), (d), (e), and (f).
 - c. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 - d. A non-refundable permit fee of \$25.00 is due upon the filing of any permit application.

2. Approval or denial of a Development Permit by the Floodplain Administrator and/or Floodplain Board shall be based on all of the provisions of these regulations and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;

- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. 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;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
 - j. The relationship of the proposed use to the comprehensive plan for that area.
3. The Floodplain Administrator or Ottawa County Floodplain Management Board, as applicable, may approve certain development in Zones A or AE delineated on the Ottawa County FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the applicant for the development permit in that case first complies with 44 CFR Section 65.12.

SECTION D. VARIANCE PROCEDURES

1 General Provisions

- a. The Ottawa County Floodplain Management Board may grant variances for the uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or these regulations if the applicant for the variance presents adequate proof that (i) compliance with these regulations will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent divisions of this Section D. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which creates flooding hazards.
- b. 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.
- c. In no case shall variances be effective for a period longer than twenty (20) years.
- d. Any person seeking a variance shall file a petition with the Ottawa County Floodplain Management Board, accompanied by a filing fee of Twenty-Five Dollars (\$25.00).
- e. 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) and provisions of Section D of this article IV have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- f. Any person seeking a variance to build a structure below the base flood elevation will be issued a notice signed by the Chairman of the Ottawa County Floodplain Management Board which states that (i) 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, and (ii) and such construction below the base flood level increases risks to life and property.
- g. At such time as the Ottawa County Floodplain Management Board deems the petition ready for notification to the public, the Floodplain Management Board shall schedule a hearing and direct the applicant to publish notice thereof in a newspaper of general circulation in Ottawa County one time at least thirty (30) days prior to the hearing.
- h. The Ottawa County floodplain Management Board shall conduct the hearing and make determinations in accordance with the applicable provisions of this section D. The Floodplain Management 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.
- i. Variances shall only be issued on: (i) A showing of good and sufficient cause, (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant, (iii) A determination that the granting of the variance

will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws, regulations or ordinances and, (iii) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- j. Upon consideration of the factors stated in this Section D and the intent of these regulations, the Floodplain Management Board may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in Article I, Section C of these regulations.
- k. The Floodplain Administrator shall maintain a record of all variance actions, including justifications for their issuance; and a copy of any variance issued by the Floodplain Management Board shall be sent by the Floodplain Administrator to the OWRB and FEMA within fifteen (15) days after issuance of the variance.

2 Special Provisions

- a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, without regard to the procedures set forth in these regulations.
- b. Variances shall not be issued in any floodway if increase in flood levels during base discharge would result.
- c. Variances may be issued for the repair or rehabilitation or restoration of historic structures upon a determination that the proposed rehabilitation or repair will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- d. Variances may be issued for new construction and substantial improvements and for development necessary for the conduct of a functionally dependant use provided that: (i) the criteria of Section D (1)(e); Section D (1)(i); Section D (2)(b); and Section D (2)(c) of this article IV are met, and (ii) 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.

Article 5
PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

1. In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:
 - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - f. 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,
 - g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

1. In all areas of special flood hazards where base flood elevations have been provided or are otherwise determined as set forth in Article 3, Section B; Article 4, Section B (8); or Article 5, Section C (1), the following provisions are required:
 - a. Residential Construction – new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least two feet or more 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 is satisfied.
 - b. Nonresidential Construction – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated to at least two feet or more 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 is satisfied.
 - c. Enclosures – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - i. 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;
 - ii. The bottom of all openings shall be no higher than one foot above grade;
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices if they permit the automatic entry and exit of floodwaters.
 - d. Manufactured Homes -
 - i. Require that all manufactured homes to be placed within Zone A on FIRM shall be installed using methods and practices, which

minimize flood damage and have the bottom of the I-beam elevated at least thirty-six (36) inches above grade or at least two feet above base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

- ii.. Require that manufactured homes that are placed or substantially improved within Zones A and AE on the Ottawa County FIRM on sites (1) outside of a manufactured home park or subdivision, (2) in a new manufactured home park or subdivision, (3) in an expansion to an existing manufactured home park or subdivision, or (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of flood, be elevated on a permanent foundation such that the bottom of the I-beam for the manufactured home is elevated to two feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. A licensed installer shall install the home in accordance with state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

- e. Recreational Vehicles – Require that recreational vehicles placed on sites within Zones A or AE on the Ottawa County 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 (d) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- f. Accessory Structures – The construction of such structure must satisfy the following standards in unnumbered and numbered A Zones;
- (a) The structure must be unfinished on the interior;
 - (b) The structure must be used only for parking and limited storage;
 - (c) The structure must not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;
 - (d) Service facilities such as electrical and heating equipment must be located two feet above BFE;
 - (e) The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
 - (f) The structure shall be designed to have low flood damage potential and be constructed with flood resistant materials;
 - (g) The structure shall be firmly anchored to prevent floatation, collapse, and lateral movement;
 - (h) Floodway requirements must be met in the construction of the structure;
 - (i) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and
 - (j) The structure shall be located so as not to cause damage to adjacent and nearby structures.

SECTION C. STANDARDS FOR SUBDIVISIONS

1. The applicant for a Development Permit for any subdivision located in Zones A and AE which is 25 or more lots or greater than 2 1/2 acres shall generate the base flood elevation data for that subdivision.
2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
3. 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. FLOODWAYS

The following provisions shall apply to floodways:

1. Encroachments, including but not limited to fill, new construction, substantial improvements and other developments are prohibited 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 D (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 letter of map revision and floodway revision through FEMA.

SECTION E. SEVERABILITY

If any section, clause, sentence, or phrase of these Regulations 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.

ARTICLE 6

VIOLATIONS

SECTION A. IMPOUNDED WATERS

In addition to all other provisions hereof, any person that impounds water in any manner, which water is located in any unincorporated area in Ottawa County, State of Oklahoma, shall not allow any such impounded water, or any water flowing into the impound by way of the backwater effect, or otherwise, to go upon any portion of real property that the person does not have the legal right to have said waters upon, either by ownership, easement or any other existing legally enforceable right to place said water upon said real property. For purposes of this Article each day that the person is in violation of these regulations is a new and separate offense, punishable hereunder. For purposes of this Article, each separate tract of land that said waters are upon is a new, different and separate offense, punishable hereunder.

For purposes of this Article, “each separate tract of land” shall be defined to mean as follows:

- a. each parcel of land that said waters are upon, which are owned by different persons, shall be considered as separate tracts of land from the others,
- b. each parcel of land that said waters are upon, which is not immediately contiguous and abutting to some other parcel of land, but both of which are owned by the same person, shall be considered as separate tracts of land from the other(s), and
- c. each parcel of land that said waters are upon, which is owned by the same person as another parcel of land, and which is immediately contiguous and abutting to the other parcel of land, but which was acquired by the person at a different time than the other parcel of land, shall be considered a separate tract of land from the other.

SECTION B. PENALTY FOR VIOLATIONS OF THE OTTAWA COUNTY FLOODPLAIN REGULATIONS

No structure or land shall hereafter be constructed, improved, located, extended, converted, or altered without full compliance with the terms of these regulations and other applicable regulations. Violation of the provisions of these regulations 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 regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment, for each violation; and in addition shall pay all costs and expenses involved in the prosecution of the case. Each day that a person is in violation of these regulations is a new, different and separate offense, punishable hereunder. Nothing herein contained shall prevent the Ottawa County Floodplain Board, Board of County Commissioners and/or the Ottawa County District Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION

It is hereby found and declared by the Ottawa County Floodplain Management 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 these regulations become effective August 5, 2010, and not before.

Approved and Adopted By The Ottawa County Floodplain Management Board This 30th Day Of July, 2010.

Therefore, an emergency is hereby declared to exist, and these regulations, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after their passage and approval on August 5, 2010.

OTTAWA COUNTY FLOODPLAIN MANAGEMENT BOARD

Larry King

Chairman

I, Nancy Burleson, the undersigned secretary of the Ottawa County Floodplain Management Board, hereby certify that the above is a true and correct copy of the Floodplain Management Regulations duly adopted by the Ottawa County Floodplain Management Board at its meeting duly convened and held on July 30th, 2010. I further certify that the Oklahoma Open Meeting Act was complied with in all respects for such meeting.

OTTAWA COUNTY FLOODPLAIN MANAGEMENT BOARD

Nancy Burleson

Secretary

Approved and adopted by the Ottawa County Commissioners this 30th day of July, 2010.

John Clarke

District 1 _____

Gary Wyrick

District 2 _____

Russell Earls

District 3 _____

APPROVED:

Ben Loring

1st Assistant District Attorney

