

PART 12

PLANNING, ZONING AND DEVELOPMENT

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CHAPTER 1

PLANNING COMMISSION

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SECTION 12-101 CREATED; MEMBERSHIP

A Town Planning Commission may be created for the Town. It shall consist of five (5) appointive members, all of whom shall be residents of the Town, and the Mayor and the Town Engineer (if any) as ex officio members. The appointive members shall be nominated by the Mayor and appointed by the Board of Trustees and shall serve for terms of three (3) years. Of the original appointive members, one (1) shall serve for a term of one (1) year; two (2) shall serve for a term of two (2) years; and two (2) shall serve for a term of three (3) years. Vacancies shall be filled for the unexpired terms. The members shall serve without compensation. The Board of Trustees may remove members of the Town Planning Commission for cause. The Town Board of Trustees may carry out the functions of the Planning Commission until a Commission is appointed.

State Law Reference: Municipal planning commissions, *Okla. Stat. Ann. tit 11, Sections 45-101 to 45-105.*

Cross Reference: Building regulations, permits, Sections 5-101, et seq.

SECTION 12-102 ORGANIZATION; MEETINGS; OFFICERS AND EMPLOYEES

The Town Planning Commission shall elect a Chairman, a Vice Chairman, and Secretary, who shall serve until the first Monday of the next May after their election. The Secretary need not be a member of the Commission. The Commission shall determine the time and place of its regular meetings; and the Chairman or any three (3) members may call special meetings of the Commission. The Commission may employ engineers, attorneys, clerks and other help deemed necessary, subject to the approval of the Board of Trustees. Their salaries and compensation shall be fixed by the Board, and shall be paid out of the Town Treasury as other salaries and compensation are paid. The necessary legal expenses shall be paid out of the Town Treasury as other legal expenses of the Town Government are paid.

SECTION 12-103 POWERS AND DUTIES

The Town Planning Commission shall have all the powers and duties prescribed for it by State Law and all other powers and duties now or hereafter prescribed for it by any other provision of ordinance or law.

SECTION 12-104 TO HAVE POWER OF A ZONING COMMISSION

A. The Town Planning Commission is hereby appointed the Zoning Commission of the Town, and the Town Planning Commission shall have the powers of a Zoning Commission as provided by State Law. Whether exercising the powers of a Planning Commission or the powers of a Zoning Commission, it shall be legally one board known as the Town Planning Commission.

B. Exercising the powers of a Zoning Commission, the Town Planning Commission shall recommend the boundaries of the various zones and appropriate zoning regulations to be enforced therein. It shall have all the powers conferred upon a Zoning Commission by State Law and all powers which now or in the future may be granted by applicable State Law to such authorities.

SECTION 12-105 PROPOSED AMENDMENTS; HEARING

Whenever the Planning Commission or governing body determines that a public hearing is to be held on a proposed amendment to the zoning regulations, notice of such hearing shall be published at least fifteen (15) days prior to the hearing in a legal newspaper whose principal office is within the municipality where the land is located. (Ord. No. 2004-03, 06/07/04)

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SECTION 12-201 STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in (statutes) 82 O.S. §§1601-1618, as amended, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town of Oologah, Oklahoma ordains the following:

SECTION 12-202 FINDINGS OF FACT

A. The flood hazard areas of the Town of Oologah, 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.

B. 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, flood proofed or otherwise protected from flood damage.

SECTION 12-203 STATEMENT OF PURPOSE

It is the purpose of this Chapter 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:

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

SECTION 12-204 METHODS OF REDUCING FLOOD LOSSES

- A. In order to accomplish its purposes, this Chapter uses the following methods:
- B. 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;
- C. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- D. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- E. Control filling, grading, dredging and other development, which may increase flood damage;
- F. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION 12-205 DEFINITIONS

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

A. **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).

B. **AREA OF SHALLOW FLOODING** - means a designated AO or AH 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.

C. **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 or A1-99.

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

E. **BASE FLOOD ELEVATION** - means the elevation in feet above mean sea level of the Base Flood or 1% chance flood.

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

G. **BOARD** - means the Oklahoma Water Resources Board.

H. **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.

I. **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.

J. **ELEVATED BUILDING** - means a non-basement building 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 adequately anchored so as not to impair the structural integrity of the building during a flood 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.

K. **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."

L. **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.

M. **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).

N. **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 or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

O. **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.

P. **FLOOD INSURANCE STUDY** - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevations of the base flood, as well as the floodway width, section area and mean velocities.

Q. **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.

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

S. **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.

T. **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.

U. **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.

V. **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.

W. **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.

X. **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.

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

Z. **HISTORIC STRUCTURE** - means any structure that is:

1. 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;
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 or 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.

AA. **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.

BB. **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.

CC. **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.

DD. **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".

EE. **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.

FF. **MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

GG. **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.

HH. **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.

II. **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

JJ. **START OF CONSTRUCTION** - 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.

KK. **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.

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

MM. **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:

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."

NN. **VARIANCE** - is a grant of relief to a person from the requirement of these regulations or Chapter 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.)

OO. **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) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

PP. **WATER SURFACE ELEVATION** - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

SECTION 12-206 LANDS TO WHICH THIS SPECIAL FLOOD HAZARD APPLIES

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Oologah, Oklahoma.

SECTION 12-207 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 Rogers County, Oklahoma and Incorporated areas" dated April 2, 2008, with accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of this Chapter. **However, the current existing Flood Damage Prevention provisions for the Town of Oologah, Oklahoma shall remain in effect until April 2, 2008.**

SECTION 12-208 ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION 12-209 COMPLIANCE

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

SECTION 12-210 ABROGATION AND GREATER RESTRICTIONS

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-211 INTERPRETATION

In the interpretation and application of this Chapter, 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 12-212 WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this Chapter 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 Chapter 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 Chapter 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.

SECTION 12-213 DESIGNATION OF THE FLOOD-PLAIN ADMINISTRATOR

The Town of Oologah, Oklahoma shall appoint, by resolution, a Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION 12-214 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

- A. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.

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B. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

C. Review, approve or deny all applications for development permits required by adoption of these regulations.

D. 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.

E. 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.

F. 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.

G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

H. Shall obtain certified Base Flood Elevation data from the applicant/developer to administer this Chapter effectively and reduce flood damage within the community.

I. 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.

J. 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** complies with 44 CFR, Chapter 1, Section 65.12.

K. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.

L. After a disaster or other type of damage occurrence to structures in the Town of Oologah, Oklahoma determine if the residential & non-residential structures & manufactured homes located in the SFHA have been substantially damaged and enforce the substantial improvement requirement.

SECTION 12-215 PERMIT PROCEDURES

A. 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. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
3. Maintain a record of all such information in accordance with Article 4, Section (B) (1).

B. 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:

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 floodwaters 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 12-216 VARIANCE PROCEDURES

A. The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this Chapter.

B. 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 this Chapter.

C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

D. 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.

E. 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 Chapter.

F. Variances may **not** 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.

G. Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter (Section 12-503).

H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

I. 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.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. 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.
3. No variance shall be granted for a structure to be constructed below the base flood elevation.

K. 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:

1. The criteria outlined in Article 4, Section D (1)-(9) are met, and
2. 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.

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

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

SECTION 12-217 PROVISIONS FOR FLOOD HAZARD REDUCTION; GENERAL STANDARDS

In all areas of special flood hazard 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 floodwaters 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 12-218 SPECIFIC STANDARDS

In all areas of special flood hazards 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 at a minimum of one (1) foot 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.

B. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at a minimum of one (1) foot above the base flood level.

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 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:

1. 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.
2. The bottom of all openings shall be no higher than one foot above grade.

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

D. Manufactured Homes -

1. 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 and have the bottom of the I beam elevated at a minimum of one (1) foot above the base flood elevation. 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 a licensed installer shall install resisting wind forces and the home and comply with State Law.

2. 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 at a minimum of one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Also, the home shall be installed by a licensed installer and comply with State Law.

3. 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

a. The bottom of the I-beam of the manufactured home is at a minimum one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement support the manufactured home chassis and also installed by a licensed installer that complies with state law.

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

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, or
3. 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.

F. Accessory Structure -

1. Structure is low valued and represents a minimal investment.
2. Structure shall be small and not exceed 600 square feet in size.
3. Structure shall be unfinished on the interior.
4. Structure can be used only for parking and limited storage.
5. Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
6. Service facilities such as electrical and heating equipment shall be elevated at a minimum of one (1) foot above the BFE.
7. Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
8. Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
9. Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
10. Floodway requirements must be met in the construction of the structure.
11. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
12. Structure is to be located so as not to cause damage to adjacent and nearby structures.

SECTION 12-219 STANDARDS FOR SUBDIVISION PROPOSALS

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 12-502, 12-503 and 12-504 of this Chapter.

B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Sections 12-508, 12-515, and the provisions of Section 12-517 of this Chapter.

C. 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 Section 12-507 or Section 12-514 H. of this Chapter.

D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

E. 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 12-220 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:

A. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated at a minimum of one (1) foot 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).

B. All new construction and substantial improvements of **non-residential** structures shall have the lowest floor (including basement) elevated at a minimum of one (1) foot above the highest adjacent grade and 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).

C. 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.

D. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 12-221 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:

A. 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.

B. 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.

C. 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 **complies with all of 44 CFR Chapter 1, Section 65.12.**

SECTION 12-222 PENALTIES FOR NON-COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter 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 Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than Five Hundred Dollars (\$500.00) for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Board of Trustees of Oologah, Oklahoma or the Town Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 3

ZONING

Section 12-301	Zoning Regulations Adopted
Section 12-302	Zoning Regulations Kept on File
Section 12-303	Comprehensive Plan Adopted
Section 12-304	Continued Use of Property

SECTION 12-301 ZONING REGULATIONS ADOPTED

Pursuant to a recommendation by the Oologah Planning Commission on February 27, 1975, and previous approval by the Town Board of Trustees on April 7, 1975, the “Zoning Regulations for Oologah, Oklahoma” as previously approved, and as may be amended from time to time, is hereby adopted and incorporated by reference into the Town Code of Ordinances, applicable fully as if set out at length herein, and all amendments thereto. (Ord. No. 84-3, 8/6/84)

SECTION 12-302 ZONING REGULATIONS KEPT ON FILE

The Zoning Regulations, which now constitute the Town Zoning Ordinance, including any amendments thereto, will be kept on file in the Office of the Town Clerk. (Ord. No. 84-3, 8/6/84)

SECTION 12-303 COMPREHENSIVE PLAN ADOPTED

The Comprehensive Plan for the Oologah Planning Area, ass previously adopted by the Planning Commission June 27, 1974, and approved with respect to areas within the Town by the Town Board of Trustees September 9, 1974, is hereby adopted and incorporated by reference as part of and adjunct to the Zoning Regulations and at least one copy of the latest edition thereof shall be kept on file in the Office of the Town Clerk. (Ord. No. 84-3, 8/6/84)

SECTION 12-304 CONTINUED USE OF PROPERTY

All tracts of real property, containing 7.5 acres or more, annexed to the Town of Oologah, Oklahoma, on or after the 28th day of October, 2004, shall not be subject to any Oologah ordinance that conflicts the previous use of the property in so far as it relates to ordinary use of the annexed property.

