

**ROGERS COUNTY, OKLAHOMA
FLOOD DAMAGE PREVENTION ORDINANCE
"DECLARING AN EMERGENCY"**

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. §§ 1607-1618, as amended, Chapter 23 delegated the responsibility to local governmental units to adopt ordinances designed to minimize flood losses. Therefore, the Rogers County Board of Commissioners, Oklahoma, ordains the following, to become effective immediately:

SECTION B. FINDINGS OF FACT

1. The flood hazard areas of Rogers County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

SECTION D. METHODS OF REDUCING FLOOD LOSSES

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

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;
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 flood waters;
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 II
DEFINITIONS

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

"Accessory structure" - means a structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal 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 Rogers County 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" - means a permit issued by Rogers County Floodplain Administrator which authorizes development in a special flood hazard area in accordance with this ordinance.

"Elevated building" - means a non-basement building built, in the case of a building in Zones AE, A, and X, 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 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.

"Existing construction" - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

"Existing manufactured home park or subdivision" - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 4, 1972.

"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.

"FIRM" means Flood Insurance Rate Map.

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

"Flood Insurance Rate Map" - means an official map of Rogers County on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to Rogers County.

"Flood insurance study" - is the official report provided by FEMA for Rogers 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 Board of Commissioners of Rogers County 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 management" - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Floodplain management regulations" - means zoning codes and ordinances, subdivision regulations, building codes, health regulations, special purpose regulations and ordinances (such as 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 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 Rogers 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 that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" - means any structure that is:

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 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 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 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 park or subdivision" - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the Rogers County's Flood Insurance Rate Map are referenced.

"New construction" - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the Rogers County Board of Commissioners and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the City of Mangum.

"OWRB" - means the Oklahoma Water Resources Board.

"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 roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

"Substantial improvement" - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start

of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or
2. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

"Variance" - is a grant of relief by the Rogers County Board of Adjustment to a person from the terms of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of Title 44 CFR.)

"Violation" - means the failure of a structure or other development to be fully compliant with the Rogers County flood damage prevention ordinance.

"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.

ARTICLE III
GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This flood damage prevention ordinance shall apply to all areas of special flood hazard within the jurisdiction of Rogers County, Oklahoma.

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

The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled, "The Flood Insurance Study for Rogers County, Oklahoma and Incorporated Areas" dated April 3 2012, with the accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of these regulations. However until April 3 2012, the flood prone areas identified by the Federal Emergency Management Agency in a "Floodway Flood Boundary and Floodway Map Rogers County, Oklahoma Unincorporated Areas", dated December 19, 1997 shall hereby be adopted by reference and declared to be a part of these regulations.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

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

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

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Rogers County or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

ARTICLE IV

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Board of Commissioners of Rogers County shall designate or appoint a Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of National Flood Insurance Program regulations in Title 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES AND 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 OWRB 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, will be reasonably safe from flooding.
3. Review, approve or deny all applications for Development Permits required by this ordinance.
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 are 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. Notify, in riverine situations, adjacent communities and the OWRB 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. Shall require the developer/applicant to determine and provide the base flood elevation on a FEMA Elevation Certificate as well as other data as required in order to administer the provisions of Article V.
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 within Zone AE as delineated on the Rogers 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 Rogers County.
10. After a disaster or other type of damage occurrence to structures in the Rogers County, determine if the residential and non-residential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.
11. Maintain a record of all actions involving an appeal from a decision of the Board of Adjustment.
12. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

SECTION C. PERMIT PROCEDURES

1. An 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:
 - a. Elevation in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures; and
 - b. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
 - 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 flood waters 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 Planning Commission Board, as applicable, may approve certain development in Zones A or AE delineated on the Rogers 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. VARIANCES

1. General provisions.

- a. The Board of Adjustment of Rogers County may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or this ordinance, if the applicant for the variance presents adequate proof that (i) compliance with this ordinance will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent provisions 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 unreasonably 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 Board of Adjustment, 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.

