

PART 12

PLANNING, ZONING, AND DEVELOPMENT

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CHAPTER I

PLANNING COMMISSION

Section 12-101	City planning commission, creation, membership.
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Section 12-103	Powers and duties.
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SECTION 12-101 CITY PLANNING COMMISSION, CREATION, MEMBERSHIP.

A city planning commission is hereby created. It shall consist of five (5) appointive members, all of whom shall be electors of the city, and of the mayor and city engineer (if any) as ex officio members. The five (5) appointive members shall be nominated by the mayor and appointed by the council, and shall serve for terms of three (3) years, the terms to end at 7:30 P.M. on the first Monday in May. Of the original appointive members, one shall serve until that time on the first Monday in May, 1958; two (2) shall serve until that time on the first Monday in May, 1959; and two (2) shall serve until that time on the first Monday in May, 1960. Vacancies shall be filled for the unexpired terms. The members shall serve without compensation. The council may remove a member of the planning commission for the good of the service. (Prior Code, Sec. L1)

State Law Reference: City planning commissions, powers, 11 O.S. Sections 44-101, 45-101 et seq.

SECTION 12-102 ORGANIZATION, MEETINGS, OFFICERS AND EMPLOYEES.

The city planning commission shall elect a chairman, a vice-chairman and a secretary, who shall serve until 7:00 P.M. on the next first Monday in 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, the mayor 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 council. Their salaries and compensation shall be fixed by the council and shall be paid out of the city treasury as other salaries and compensation are paid. The necessary legal expenses shall be paid out of the city treasury as other legal expenses of the city government are paid. (Prior Code, Sec. L2)

SECTION 12-103 POWERS AND DUTIES.

A. The city planning commission shall prepare from time to time plans for the systematic development and betterment of the city as a place of residence or for business. It may consider and investigate any subject matter tending to the development and betterment of the city, and make such recommendations as it may deem advisable concerning the adoption thereof, to any department, officer or agency of the city government, and make or cause to be made surveys, maps and plans for any purpose. It shall have all the powers conferred upon a city planning commission by state law, and all powers which in the future may be granted by applicable state law to such authorities.

B. Before final action shall be taken by the city or any department, officer or agency thereof, on the location and design of any public building, statue, memorial,

park, parkway, boulevard, street, alley, playground, public grounds, or bridge, or on the change of the location of any street, alley or grade thereof, such question shall be submitted to the city planning commission for investigation and report.

C. All plans, plats or replats of land laid out in lots or plats, and the streets, alleys or other portions of the same intended to be dedicated to public or private use, within the corporate limits of the city, shall first be submitted to the city planning commission for its approval or rejection; and regardless of the action of the city planning commission, before such plans, plats or replats shall be entitled to record in the office of the county clerk, they must be approved by the council. The disapproval of any such plan, plat or replat by the council, shall be deemed a refusal of the proposed dedication shown thereon. (Prior Code, Sec. L3)

SECTION 12-104 POWER OF A ZONING COMMISSION.

A. The city planning commission, heretofore created, is hereby appointed the zoning commission of the city; and the city 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 heretofore as the city planning commission.

B. Exercising the powers of a zoning commission, the city planning commission shall recommend the boundaries of the various zones and appropriate zoning regulations to be enforced therein, and any changes therein which it may deem desirable from time to time. It shall have all the powers conferred upon a zoning commission by state law, and all powers which in the future may be granted by applicable state law to such authorities. (Prior Code, Sec. L4)

SECTION 12-105 ZONING PROCEDURE.

The city planning commission shall make a preliminary report on recommended zones and regulations, and shall hold public hearings thereon before submitting its final report to the council. The council shall not hold public hearings nor take action on the report until it has received such final report from the commission. Notices shall be in conformance with applicable state law.

CHAPTERS 2 AND 3
ZONING REGULATIONS

Section 12-201 Zoning regulations adopted.

SECTION 12-201 ZONING REGULATIONS ADOPTED.

The city's zoning regulations, adopted by ordinance, and all amendments thereto, are hereby adopted and incorporated herein by reference. Any violation of the zoning regulations shall be punishable as provided in Section 1-108 of the city's code of ordinances.

Ed. Note: Ords. 79-1269, 82-1296 and 82-1300 amend the city's zoning code. See ordinance table for other amendments.

CHAPTER 4
SUBDIVISION REGULATIONS
(RESERVED)

CHAPTER 5

FLOOD PLAIN MANAGEMENT

Section 12-501	Definitions.
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Section 12-508	Variance procedures.
Section 12-509	General standards; flood hazard areas.
Section 12-510	Specific standards; flood hazard areas.
Section 12-511	Standards for subdivision proposals; flood hazard areas.

SECTION 12-501 DEFINITIONS.

Unless specifically defined in this section, 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 its most reasonable application:

1. "Appeal" means a request for a review of an interpretation by the city manager of any provision of this chapter or a request for a variance;
2. "Area of shallow flooding" means a designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three (3) feet. This condition occurs where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident;
3. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year;
4. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year;
5. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations;
6. "Existing mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the original effective date of this chapter;
7. "Expansion to an existing mobile home park or mobile home subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets);
8. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; or
- b. The unusual and rapid accumulation of runoff of surface waters from any source;

9. "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated a Zone A;

10. "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community;

11. "Flood insurance study" means the official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, as well as the Flood Hazard Boundary-Floodway Map;

12. "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 one foot;

13. "Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor";

14. "Mean sea level" means the average height of the sea for all stages of the tide;

15. "Mobile home" means a structure, transportable in one or more sections, which is built on permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers;

16. "New mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the original effective date of this chapter;

17. "Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, plots 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure on any part thereof of its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities

for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed;

18. "Structure" means a walled and roofed building that is principally above ground, as well as a mobile home;

19. "Substantial improvement" means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred;

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places; and

20. "Variance" means a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by the chapter.

(Ord. No. 77-1245, 11/7/77)

SECTION 12-502 APPLICATION; COMPLIANCE; INTERPRETATION.

A. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

B. 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.

C. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

D. 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.

(Ord. No. 77-1245, 11/7/77)

SECTION 12-503 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), City of Dewey, Community No. 400221, dated May 31, 1974, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. (Ord. No. 77-1245, 11/7/77)

SECTION 12-504 DEVELOPMENT PERMIT REQUIRED.

A development permit shall be required to ensure conformance with the provisions of this chapter. (Ord. No. 77-1245, 11/7/77)

SECTION 12-505 WARNING AND DISCLAIMER OF 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 city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. No. 77-1245, 11/7/77)

SECTION 12-506 DESIGNATION OF ADMINISTRATOR; DUTIES.

A. The city manager is hereby appointed to administer and implement the provisions of this chapter. In the absence of the city manager, the duties of the administrator will be performed by the city clerk.

B. Duties and responsibilities of the city manager shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;

2. Review, approve or deny all applications for development permits required by Section 12-504 of this code;

3. Review permits for 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;

4. 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 conflict between a mapped boundary and actual field conditions);

5. Notify adjacent communities and the Oklahoma Water Resources Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

6. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished; and

7. When base flood elevation data has not been provided in accordance with Section 12-503, obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer the provisions of Sections 12-509 through 12-511 of this code.

(Ord. No. 77-1245, 11/7/77)

SECTION 12-507 PERMIT PROCEDURES; APPROVAL OR DENIAL.

A. Application for a development permit shall be presented to the city manager on forms furnished by him 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, 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 proposed structures;

2. Elevation in relation to mean sea level to which any non-residential structure shall be floodproofed;

3. A certificate from a registered professional engineer or architect that the non-residential floodproofed structure shall meet the floodproofing criteria of Section 12-510 of this code; and

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

B. Approval or denial of a development permit by the city manager shall be based on all of the provisions of this chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities

and facilities such as sewer, gas, electrical, and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

8. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

9. The relationship of the proposed use to the comprehensive plan for that area.

(Ord. No. 77-1245, 11/7/77)

SECTION 12-508 VARIANCE PROCEDURES.

A. The city's board of adjustment shall hear and render judgment on requests for variances from the requirements of this chapter. It 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 city manager in the enforcement or administration of the chapter. Any person or persons aggrieved by the decision of the board of adjustment may appeal such decision in the courts of competent jurisdiction.

B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) 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 12-507 (B) of this code have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases. Upon consideration of the factors noted above and the intent of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.

C. Prerequisites for granting variances include the following:

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. A showing of 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 or ordinances; and

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation no more than seven (7) feet below the base flood elevation, and that the cost of flood insurance

will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

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

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 section.

F. The city manager shall maintain a record of all actions involving an appeal and shall report variances to the Federal Insurance Administration upon request. (Ord. No. 77-1245, 11/7/77)

SECTION 12-509 GENERAL STANDARDS; FLOOD HAZARD AREAS.

In all areas of special flood hazards, the following provisions are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
5. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters; and
6. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 75-1225, 5/19/75; Ord. No. 77-1245, 11/7/77)

SECTION 12-510 SPECIFIC STANDARDS; FLOOD HAZARD AREAS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sections 12-503, 12-506 and 12-511 of this code, the following provisions are required:

1. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the city manager that the standard of this subsection, as proposed in Section 12-507 of this code is satisfied;
2. Non-residential Construction. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have

the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall submit a certification to the city manager that the standards of this paragraph as proposed in Section 12-507 of this code are satisfied; and

3. Mobile Homes. No mobile home shall be placed in a floodway except in an existing mobile home park or existing mobile home subdivision. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Specific requirements shall be:

- a. Over-the-top ties at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one additional tie per side;
- b. Frame ties at each corner of the home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;
- c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
- d. Any additions to the mobile home be similarly anchored.

(Ord. No. 77-1245, 11/7/77)

SECTION 12-511 STANDARDS FOR SUBDIVISION PROPOSALS; FLOOD HAZARD AREAS.

- A. All subdivision proposals shall be consistent with this chapter.
- B. All proposals for the development of subdivisions shall meet development permit requirements of Sections 12-504, 12-507 and 12-509 through 12-511 of this code.
- C. Base flood elevation data shall be generated for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres, if not otherwise provided pursuant to Sections 12-503 and 12-506 of this code.
- D. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. (Ord. No. 77-1245, 11/7/77)

CHAPTER 6

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION 12-601 STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in (statutes) 82 O.S. §§1601-1618, as amended, Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Dewey, Oklahoma, ordains the following:

SECTION 12-602 FINDINGS OF FACT

(1) The flood hazard areas of the City of Dewey 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 12-603 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 12-604 METHODS OF REDUCING FLOOD LOSSES

1. In order to accomplish its purposes, this ordinance uses the following methods:
2. 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;
3. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
5. Control filling, grading, dredging and other development which may increase flood damage;
6. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION 12-605 DEFINITIONS

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

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

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.

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.

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.

BOARD – means the Oklahoma Water Resources Board.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means a non-basement building 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.

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

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

1. The overflow of inland or tidal 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 a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

FLOODPLAIN ADMINISTRATOR - means a person accredited by the Board and designated by a City Council, to administer and implement laws and regulations relating to the management of the floodplains.

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

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

HISTORIC STRUCTURE - means any structure that is:

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.

LEEVE - 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.

LEEVE SYSTEM - means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the 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.

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

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

RECREATIONAL VEHICLE - means a vehicle which is:

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 (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

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

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

VIOLATION - means the failure of a structure or other development to be fully compliant with this community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

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 12-606 GENERAL PROVISIONS

A. LANDS TO WHICH THIS ORDINANCE APPLIES

This floodplain management ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Dewey, Oklahoma.

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 Washington County, Oklahoma and Incorporated areas dated September 26, 2008, with accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of this ordinance.

C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

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.

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.

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.

G. WARNING AND DISCLAIMER OR LIABILITY

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

SECTION 12-607 ADMINISTRATION

A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Manager or his/her appointee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

1. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of these regulations.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval are required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with Section 12-606 Part B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 12-608.
9. 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.
10. 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.

11. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.
12. After a disaster or other type of damage occurrence to structures in the City of Dewey, determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

C. 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. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 12-608, Part B (2);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Section 12-607, Part (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 flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

D. VARIANCE PROCEDURES

1. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. 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 ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Part C (2) of this Section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Section 12-603).
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
 - a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b) Variances shall only be issued upon:
 - 1) Showing a good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - 3) 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.
 - c) A written notice will be provided to any person granted a variance to build a structure below the base flood elevation. This notice will inform the variance applicant that the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a) The criteria outlined in Section 12-607, Part D (1)-(9) are met, and
 - b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
12. Any person seeking a variance shall file an application with the review board, accompanied by a filing fee of Five Dollars (\$5.00).
13. A copy of any variance issued shall be sent to the OWRB within in fifteen (15) days of issuance.

SECTION 12-608 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. GENERAL STANDARDS

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

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. SPECIFIC STANDARDS

In all areas of special flood hazards the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 12-607, Part C (1) a., is satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below

the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. The Floodplain Administrator shall maintain a record of all floodproofing certifications that includes the specific elevation (in relation to mean sea level) to which each structure has been floodproofed.

3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b) The bottom of all openings shall be no higher than one foot above grade.
- c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes** -

- a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I beam elevated at or 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 resisting wind forces and a licensed installer shall install the home and place the required placard on the dwelling.
- b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such

that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Also, a licensed installer shall install the home.

- c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that the bottom of the I-beam of the manufactured home is at or 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.
5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
- a) Be on the site for fewer than 180 consecutive days,
 - b) Be fully licensed and ready for highway use, or
 - c) Meet the permit requirements of Section 12-607, Part 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.
6. **Accessory Structure** -
- a) Structure is low valued and represents a minimal investment.
 - b) Structure shall be small and not exceed 600 square feet in size.
 - c) Structure shall be unfinished on the interior.
 - d) Structure can be used only for parking and limited storage.
 - e) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
 - f) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofed.
 - g) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
 - h) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
 - i) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.

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

C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 12-602, 12-603, and 12-604 of this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 12-606, Part C; Section 12-607, Part C; and the provisions of Section 12-608 of this ordinance.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 12-606, Part B or Section 12-607, Part B (8) of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

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

Located within the areas of special flood hazard established in Section 12-606, Part B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flows may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

2. All new construction and substantial improvements of **non-residential** structures;
 - a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - b) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 12-607, Part C (1) a., are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

E. FLOODWAYS

Floodways - located within areas of special flood hazard established in Section 12-606, Part B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If Section 12-608, Part E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 12-608.
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 **complies with all of 44 CFR Chapter 1, Section 65.12.**

F. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than two-hundred dollars (\$200.00), for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council of Dewey or City Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ordinance No. 2008-1479)

Planning, Zoning, and Development

CHAPTER 7

TELECOMMUNICATIONS SERVICES

Section 12-700	Purpose.
Section 12-701	Definitions.
Section 12-702	Permit required.
Section 12-703	Co-Location Requirements.
Section 12-704	Telecommunications Facility Standards.
Section 12-705	Alternative Structures Standards.
Section 12-706	Specific Standards.
Section 12-707	Permit Condition.
Section 12-708	Permit Approval Process.
Section 12-709	Zoning Requirements.

SECTION 12-700 **PURPOSE**

The purpose of the regulations for telecommunications facilities are:

- To facilitate the provision of telecommunications services throughout the city;
- To enhance the ability to provide telecommunications services to the community quickly, effectively and efficiently;
- To encourage the location of towers in non-residential zoned districts;
- To minimize the total number of towers in the community;
- To encourage the joint use of new and existing tower locations;
- To ensure that towers are located in areas that minimize adverse impacts;
- To ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design, appropriate siting and landscape screening;
- To encourage the attachment of antennas on existing structures;
- To consider public health and safety effects of telecommunications facilities;
- To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures; and
- To protect residential areas and lands by minimizing adverse impacts of towers.

SECTION 12-701 **DEFINITIONS**

Accessory support facilities shall mean support buildings, structures and equipment cabinets for telecommunications facilities containing electrical and mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optice, laser, microwave, radio, satellite or similar facilities.

Planning, Zoning and Development

Alternative tower structure shall mean clock towers, bell steeples, building structures or building equipment normally maintained above the roof line of a structure, light poles and similar alternative design mounting structures. An alternative tower structure must be compatible with the natural setting and surrounding structures, must camouflage or conceal the presence of antennas and/or towers and be a minimum of 30 feet in height. This term also includes any antenna or antenna array attached to the alternative tower structure.

Antenna shall mean any exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

Backhaul network shall mean the lines that connect a provider's tower/cell sites to one or more cellular telephone switching offices, and/or long distance, or the public switched telephone network.

Co-Location: The use of a single mount or tower on the ground by more than one carrier or several antennas on an existing building or structure by more than one carrier.

FAA: Federal Aviation Administration

FCC: Federal Communications Commission

Fall Zone: The area of ground within a prescribed radius from the base of a telecommunications tower and antenna. The fall zone is the area within which there is a potential hazard of falling debris or collapsing material.

Telecommunications facilities shall mean the plant, equipment and property, including but not limited to, cables, wire, conduits, ducts, pedestals, antennae, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide and offer telecommunications services.

Telecommunications service shall mean the providing or offering for rent, sale or lease, or in exchange for other value received, or the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefits or any closed transmission medium.

Tower shall mean any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

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Tower height shall mean when referring to a tower or other alternative tower structure, the distance measured from the lowest point within ten feet (10') of the structure to the highest point on the tower or other alternative tower structure, including the base pad and any antenna.

SECTION 12-702

PERMIT REQUIRED

Telecommunications facilities shall be regulated and permitted pursuant to this ordinance and the zoning ordinances of the City.

- A. A telecommunications facility shall obtain a building permit as a condition for the siting, construction or operation of the telecommunications facility.
- B. These regulations shall apply to all towers and antennas as defined, except:
 - 1. Any tower an antenna not more than seventy feet (70') in height, owned and operated by a federally licensed amateur radio station operator if it is used exclusively as a receive only facility.
 - 2. Any antenna co-located on an existing telecommunications facility, except as expressly provided in this ordinance.
 - 3. A telecommunications facility located or co-located on property, which is owned by the City and designated by the City as a site suitable for location of a telecommunications facility.
- C. Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief or penalty provided by law, the City may apply to district court for an injunction to prohibit the continuation of any violation of this ordinance.

SECTION 12-703

CO-LOCATION REQUIREMENTS

- A. All applicants for a telecommunications facility permit shall co-locate on an existing facility if it is feasible to do so. An existing facility shall be deemed to be available to the applicant for co-location; the facility is within the search ring of the applicant or within a reasonable distance so as to fit into the applicant's design; space is available on the facility; and the facility owner will lease space to applicant at a reasonable market rate.
 - 1. If the applicant find co-location is not feasible, it shall submit to the City a written statement of the reasons for the infeasibility. The City may retain a technical expert in the field of radiofrequency (RF) engineering to determine whether co-location at the site is feasible. The cost for such technical expert will be at the expense of the applicant.
 - 2. Should co-location not be feasible, applicant must consider city owned property for construction of any new tower. If the applicant determines that city owned property is not feasible it shall submit to the City a written statement of the reasons for the infeasibility. The City may retain a technical expert in the field of radio frequency (RF) engineering to determine whether the site is feasible. The cost for such a technical expert will be at the expense of the applicant.

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3. The city may deny the permit unless the applicant demonstrates to the City by substantial evidence that existing telecommunications facilities cannot accommodate the applicant's proposed antenna.

(Amended by Ordinance 2000-1401; co-location requirements only)

- B. A telecommunications tower shall be not be permitted unless the owner of the proposed tower certifies to the City that the tower is available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis. Towers shall be designed and built to accommodate a minimum of three telecommunications facilities.
- C. To facilitate co-location and coordination of telecommunication sites all telecommunication service providers shall, within ninety (90) days of the passage of this ordinance, provide the City with their respective master antenna plans. Said plans shall include detailed maps showing the locations of all telecommunications towers serving any portion of the City and indicating their coverage areas.
- D. Providers shall also provide the City with any updates to the above documents within ninety days of their creations.

SECTION 12-704

TELECOMMUNICATION FACILITY STANDARDS

- A. The exterior of equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way must maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- B. At a telecommunications facility, the design of the buildings and related structures used in conjunction with telecommunications facilities shall, to the extent possible, use materials, colors, texture, screening and landscaping that will blend the telecommunications facilities to the natural setting and the built environment.
- C. Guy wires must be anchored no closer than twenty-five feet (25') from any property lines. Guy wires shall not cross or encroach any overhead telephone or electric power lines.
- D. The height of a single antenna tower shall not exceed one hundred fifty feet (150'). The height of a tower with two or more antennas shall exceed one hundred ninety-five feet (195'). Maximum height shall be measured from ground at base to highest point on tower and antenna. A conditional use permit will be required for any structure that exceeds one hundred ninety-five feet (195').
- E. Applicants will be required to demonstrate that the planned telecommunications facility will not cause radio frequency interference with other equipment. Such interference is prohibited.
- F. All telecommunication facilities must have a five (5) foot buffer or landscaping outside the perimeter of the fenced facilities.
- G. The base of the tower and any accessory support facilities such as anchored locations of guy wires shall be screened from view with a solid fence, which shall be a minimum of six feet (6') in height.

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- H. Illumination of a tower is prohibited except as required by the FAA. Strobes shall be used for nighttime lighting. Any required lighting shall be directed upward and away from adjoining properties. In addition, the ground level security lighting shall not be more than twenty feet (20') in height and shall be focused to avoid conflict with vehicle operators in a public right-of-way.
- I. The applicant will be required to provide ingress/egress only from approved access points and a minimum of one (1) off-street parking space per provider.
- J. Fall Zone/Setback Requirements

All wireless telecommunications towers and their equipment shelters shall comply with the building setback provisions of the zoning district in which it is located. In addition, the following requirements shall be observed:

- 1. A structural engineer's certification will be required to show the tower is designed to fall within the leased area should it fail.
- 2. During the term of the Lease, Tenant shall maintain, or cause to be maintained, in full force and effect and its sole cost and expense, the following types and limits of insurance:
 - A. Worker's Compensation Insurance meeting applicable statutory requirements.
 - B. Comprehensive commercial general liability insurance insuring the Tenant and the Landlord against any and all claims made due to damage to personal property and/or injury to persons resulting from any of the Tenant's operations on the leased Premises in an amount of not less than one million dollars (\$1,000,000.00) for all claims for personal injury arising out of a single occurrence, one hundred thousand dollars (\$100,000.00) for an individual injury to a person arising out of a single occurrence and twenty-five thousand (\$25,000.00) in property damage with the Landlord to be named an additional insured and adequate evidence of obtaining those insurance policies provided to the Landlord.
 - C. Automobile liability insurance covering all owned, hired and non-owned vehicles is used by Tenant, its employees and agents to comply with all provisions of state law with minimum limits of five hundred thousand dollars (\$500,000.00) as the combined single limit for each occurrence for bodily injury and property damage.
 - D. Tenant shall require that each and every one of its contractors and their subcontractors who perform work on the Premises to carry, in full force and effect, worker's compensation, comprehensive public liability and automobile liability insurance coverage.
- K. Signs on telecommunications towers shall only display the name, registration and emergency contact number of the tower owner with the exception of signs required by FCC regulations or signs containing warning or safety instructions. Signs are limited to four (4) square feet in size and advertising is expressly prohibited.
- L. No tower shall be closer than five hundred feet (500') from another tower. Any new telecommunications tower in excess of one hundred and eighty feet (180') in height must be located a minimum of one (1) mile from any existing tower in excess of one hundred and eighty feet (180') in height.

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- M. Support facilities can be no more than three hundred and fifty (350) square feet of gross floor area nor more than twelve feet (12') in height per user. Minimum setback requirements of the zoning district apply to the accessory support facilities.

SECTION 12-705 ALTERNATIVE STRUCTURES STANDARDS

- A. Telecommunications facilities may be permitted on an alternative tower structure at least thirty feet (30') tall under the following conditions, which shall be in addition to the requirements of Sections 5 and 7:
1. The facility and its accessory support facilities comply with all zoning requirements applicable to the alternate structure and the provisions of Section 5 of this ordinance.
 2. If the facility or an accessory support facility is located upon the roof of a structure, each such facility shall be set back a distance from the roof edge at least equal to the height of the telecommunications facility unless the facilities are screened or camouflaged in a manner that is compatible with the surrounding property. The top of the antenna or other facility shall not be more than thirty percent (30%) of the height of the alternate structure, or seventy-five feet (75') whichever is less.
 3. The alternative structure must be similar in color, scale and character to adjoining buildings or structures or blend with the landscaping and other surroundings immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment; and
 4. Prior to the installation of any building/roof mounted telecommunications facility, the applicant shall furnish to the City a structural engineer's certification that the building structure will support and not be adversely affected by the proposed antenna and accessory support facility or equipment.

SECTION 12-706 SPECIFIC STANDARDS

- A. All telecommunications facilities shall be erected and operated in compliance with current Federal Communication commission (FCC) and Federal Aviation Administration (FAA) rules and regulations and other applicable federal, state and local standards.
- B. The tower owner is required to provide documentation that the power density levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards, whichever provides the stricter requirements.
- C. An applicant must provide a copy of its FCC license or, if the applicant is not a FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower.
- D. Telecommunication facilities shall not be permitted in any wetland, floodplain, or wilderness or wildlife area and disturbance to wetland buffer areas shall be minimized. A telecommunication facility shall not be permitted in any area where it would threaten endangered species or critical habitats. Telecommunication facilities shall not be permitted.

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where they would significantly change surface are, contribute significantly to deforestation or create significant water diversions. Stormwater run-off shall be contained on-site at all telecommunication facilities. Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at the property line. Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

- E. Telecommunications tower structures must conform to the most current revision of EIA 222 standards. Guyed telecommunications towers shall be designed and located such that, if the structure should fall, it will avoid habitable structures and public ways (refer to Section V, Paragraph J). The applicant must supply a structural engineer's certification of the structural integrity of the tower and associated equipment. If more than one user is involved, the applicant shall supply certification that the tower has sufficient integrity to accommodate more than one user.
- F. Telecommunications facilities shall be designed and engineered to withstand wind loadings and other design standards as defined by BOCA and ANSI for Washington County, Oklahoma.

SECTION 12-707 PERMIT CONDITION

- A. No owner or occupant of property within the City shall permit, leave or cause to be left on said property any telecommunications facility which has been abandoned or discontinued for use. The provider shall remove its facility within ninety (90) days of the date that it discontinues its use of the facility. If the provider fails to remove the facility within the required time, the facility shall be deemed to be abandoned. The City shall have authority to enter the premises and remove the abandoned facilities. All costs of removal shall be collected from the provider in the manner provided for summary abatement of nuisance. This requirement shall apply to co-located facilities unless the co-location agreement provides for the removal of abandoned facilities by the tower operator.
- B. Defective or unsafe antennas, telecommunication towers or telecommunication facilities are to be repaired or removed within ninety (90) days at the owner or operator's expense. If the facilities are not operated for a continuous period of twenty-four (24) months they shall be considered abandoned and must be removed within ninety (90) days. If not removed, the City may remove at the expense of the owner or operator.
- C. Any telecommunications towers or telecommunications facilities existing at the time of the adoption of this ordinance and not conforming to its provisions shall be considered legal and non-conforming. These facilities shall be permitted to remain provided that they are not:

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1. Expanded or increased in height.
2. Restored after damage or destruction, by any means, exceeding 50 percent of the estimated replacement value.
3. A hazard to safety, health or welfare.

SECTION 12-708

PERMIT APPROVAL PROCESS

- A. Except for a proposed telecommunications facility which will co-locate on an existing tower, the applicant for a telecommunications facility permit shall notify all property owners within three hundred feet (300') of the outer boundary of the property proposed for location of the facility. Such notice shall describe the boundaries of the property included in the application, explain the character and dimensions of the proposed telecommunications facility and give an address for the property owners to submit written comments to the applicant. The notice shall include a drawing or other representation of the visual aspect of the proposed facility. The notice shall also contain the date, which shall be not less than fifteen (15) days after the mailing date, set for consideration of the application by the City.
- B. Applicant shall pay a fee of \$150.00 to cover the cost of the permit process. That permit fee is non-refundable even if the permit is denied.
- C. The applicant must submit to the office of the City Manager along with his application, an inventory and contour map of existing facilities that are within the City and least one (1) mile from the City limits, including specific information about the location, height, coverage, capacity and design of each telecommunication facility, telecommunication tower and antenna.

SECTION 12-709

ZONING REQUIREMENTS

Applicants for telecommunication facilities must verify zoning compliance. Zoning Ordinance and Subdivision Regulations denotes the applicable requirements. Conditional use permit approvals may be necessary to gain compliance.

(ORD. 2000-1400)