

PART 12
PLANNING, ZONING AND DEVELOPMENT

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SECTION 12-101 CREATED, MEMBERSHIP.

A. There is hereby created in the town a planning commission to be composed of five (5) members. Upon the passage and adoption of this chapter, the president of the board of trustees of the town shall nominate:

1. One member to serve for a period of one year;
2. Two (2) members to serve for a period of two (2) years; and
3. Two (2) members to serve for a period of three (3) years.

B. Such nominees shall be confirmed by a majority of the board of trustees of the town. The members of the planning commission appointed upon the passage and approval of this chapter shall all serve an interim term to the first day of June, on which date the respective terms of office of the commissioners so appointed shall begin. The president upon nominating such commissioners shall state:

1. Which such commissioners shall serve for a period of one year;
2. Which of such commissioner shall serve for a period of two (2) years; and
3. Which of such commissioners shall serve for a period of three (3) years.

C. The members of the planning commission shall be appointed from residents of the town, and an effort is to be made to secure the services of persons best qualified to plan for the future growth, development and improvement of the town, and in the orderly development of planning for the town as a whole. The members of the planning commission shall serve without salary, and in the event of a vacancy on the commission for any reason, a successor shall be appointed as herein provided for the unexpired term only of such vacancy.

SECTION 12-102 CHAIRMAN, SECRETARY.

A. Immediately after the appointment and qualification of the members of the planning commission, the commission shall meet and elect:

1. One of their number as chairman;
2. One of their number as vice chairman; and
3. One of their number as secretary.

B. Such officers when so elected shall serve in their respective capacity until June 1, 1983, at which time a chairman, vice chairman and secretary shall be elected for a term of one year, or until their successors are elected and qualified.

SECTION 12-103 RULES AND REGULATIONS.

The planning commission shall prescribe rules and regulations governing and controlling the transaction of business before it, and shall determine a date each month for regulation meetings. Special meetings may be called at any time by the chairman of the commission.

SECTION 12-104 DUTIES AND POWERS.

The duties and powers of the planning commission shall be as follows:

1. To investigate and recommend to the president and board of trustees suitable zoning ordinances for the town;
2. To investigate and make recommendations concerning the physical development growth, improvement, convenience and beautification of the town;
3. To investigate all matters relating to the location and development of parks, recreation places, streets, public grounds, location and design of public buildings and public structures, and to make report of their findings on any proposed or contemplated project relative to any of the above matters to the board of trustees of the town; and
4. All findings and recommendations of the planning commission affecting private property shall be submitted in writing to the board of trustees of the town for their examination, approval or reflection.

SECTION 12-105 PROCEDURE.

All projects or matters that fall within the purview of the duties of the planning commission, as herein specified, that may come before the board of trustees of the town, shall be referred to the planning commission for investigation and report before any final action be taken thereon. However, if the planning commission shall fail to make an investigation and report on any matter or subject referred to it for a period of sixty (60) days, such failure shall be considered a refusal to approve the proposed plan or project, and the board of trustees may thereupon act upon such proposal, plan or project as though such matter had not been referred to the planning commission.

SECTION 12-106 PLATS AND SUBDIVISION.

No platting of unplatted property in the town, and no platting of any existing subdivisions in the town, shall be permitted until such plat or subdivision shall be presented to the planning commission. Upon such proposed plat or subdivision being presented to the planning commission, it shall within thirty (30) days make its findings and recommendations to the board of trustees of the town, concerning the adoption, modification or rejection of the platting, replatting, or subdivision.

SECTION 12-107 EXPENDITURES.

The planning commission shall as required make application to the board of trustees of the town for the funds that may be necessary for such planning commission

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to expand in order to carry out its duties as herein specified. Commencing with the next fiscal year following the enactment of this chapter, the planning commmission shall make application to the board of trustees for an appropriation to be set up for its use in carrying out its duties, and the town shall include such appropriation in its budget to be filed with the excise board of Cherokee County.

CHAPTER 2

ZONING ORDINANCE

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Section 12-208	Effective date.

SECTION 12-201 PURPOSE, INTENT AND NECESSITY OF INTERIM ZONING ORDINANCE.

A. The purpose and intent of the board of trustees of the town is to immediately begin the preparation of and to adopt a general plan for the town, that will provide for the development of an orderly, attractive, efficient and healthful town; and it is further intended that a comprehensive zoning ordinance shall be prepared and adopted to implement the general plan.

B. The board of trustees recognizes that the preparation of such a comprehensive zoning ordinance shall require considerable time for surveys, investigations and studies before such regulation can be prepared and adopted. During the time that such comprehensive zoning ordinance and regulations are being developed, Sections 12-201 et seq. are enacted:

1. To promote the health, safety, morals and general welfare of the community that the regulations are intended to promote;

2. To permit the indiscriminate location and conduct of certain activities within the commercial or industrial areas of the town;

3. To allow the overcrowding of land with buildings for commercial purposes;
or

4. To permit the projection of buildings into yard area needed to provide light, air open space for the occupants, tenants or owners thereof.

C. The board of trustees of the town hereby declare the purpose of the regulations and restrictions set forth herein is to promote the public health, safety, morals and general welfare by controlling, regulating and restricting:

1. The height, number of stories, size of buildings and other structures;

2. The percentage of lot that may be occupied;

3. Size of yards, courts and other open spaces;

4. The density and location and use of buildings and structures; and

5. The land for trade, business, industry or other purposes for a reasonable period until such comprehensive zoning ordinance has been financed, prepared, adopted and approved.

SECTION 12-202 SHORT TITLE.

This section shall be known and be cited as the Interim Zoning Ordinance of the Town of Hulbert.

SECTION 12-203 APPLICATION.

The provisions of these regulations shall apply to all lands, properties, buildings and structures located within the corporate limits of the town, except as hereinafter otherwise provided, and no land shall be used and no building, structure or improvement shall be made, erected, constructed or altered except in accordance with the provisions, contained in these regulations. This interim zoning ordinance shall remain in full force and effect until the comprehensive zoning ordinance is adopted by the board of trustees of the town.

SECTION 12-204 DEFINITIONS.

A. In these zoning regulations, words used in the present tense include the future tenses; words used in the singular number shall include the plural and words used in the plural shall include the singular; except where the natural construction of the writing indicates otherwise.

B. The word "shall" is mandatory and compulsory. The word "building" means and may be interchangeable with the word "structure". The word "used" means and shall include and be interchangeable with:

1. "Altered";
2. "Arranged";
3. "Constructed";
4. "Converted";
5. "Designed";
6. "Intended to be used"
7. "Leased" or
8. "Rented".

C. As used in these regulations the definitions set out below shall govern the interpretation of the words to which they are attached:

1. "Accessory building" means a building or structure customarily incidental and subordinate to the main or principal building;

2. "Accessory use" means a use customarily incidental, appropriate, and subordinate to the main or principal use of the land or buildings located on the same lot or premises;

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3. "Board" or "board of trustees" means the board of trustees of the town, and necessarily includes and is interchangeable with the "city", "town", "city council" and "governing body";

4. "Building" means any structure intended for shelter, housing or the enclosure of persons, animals, or chattels. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building;

5. "Building main" means a building in which is conducted the principal use of the lot on which it is situated. Any dwelling shall be deemed to be a main building on the lot on which it is situated;

6. "Dwelling" means any building or portion thereof which is designed or used as living quarters for one or more persons;

7. "Lot" means any plot of land occupied or intended to be occupied by one building or a group of buildings, and its accessory buildings and uses, including open spaces, and having its principal frontage on a street;

8. "Nonresidential" means any type of land use not classified as a residence or dwelling place of one or more persons, and includes commercial, industrial and all other types of land uses;

9. "Planning commission" or "commission" means the planning commission of the town and necessarily includes and is interchangeable with "commission" or "zoning commission";

10. "Residence" or "residential" means any building, structure, or portion thereof, which is designed or used as living quarters for one or more persons, but not including a tent, cabin, trailer, or trailer coach, boarding or rooming house, hotel or motel, apartments, duplexes, or multiple dwellings;

11. "Street" means any public or private thoroughfare which affords the principal means of access to abutting property;

12. "Structure" means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground; and

13. "Structural alterations" means any change in the supporting members of a building, such as the bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or the exterior walls.

SECTION 12-205 ONLY RESIDENTIAL USES PERMITTED.

It shall be unlawful to use any land or to locate, erect, or construct any building or structure intended or designed to be used for commercial, industrial, or any other types of land uses or purposes other than residential uses as defined hereinbefore, or to change the use of any building or land for any other than residential purposes as hereinbefore defined; provided, however, that a zoning clearance permit signifying the express authorization of the board of trustees may permit such commercial industrial, or other types of land uses to be located, expanded, or moved anywhere within the corporate limits of the town.

SECTION 12-206 ZONING CLEARANCE PERMIT PROCEDURE.

A. All commercial, industrial, or other types of land uses other than residential uses shall be reviewed and authorized or rejected under the following procedures:

1. An application shall be filed with the planning commission for review. The application, accompanied by a fee of Ten Dollars (\$10.00), shall be filed with the town clerk-treasurer who shall act as the filing clerk for the commission. Upon the filing of such application, the town clerk-treasurer shall refer the same to the planning commission for its action. The application may be by letter or by other document sufficient to represent the applicant's intent and shall show the location and intended use of the site, the names of all the property owners and existing land uses within three hundred (300) feet and any other material pertinent to the request which the planning commission may require; and

2. The planning commission within a reasonable time following the filing of such application shall transmit to the board of trustees its report as to the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utilities and other matters pertaining to general welfare, and the recommendation of the planning commission concerning use thereon.

B. Thereupon the board of trustees may authorize or deny the issuance of a permit for use of land or buildings as requested. Upon approval by the board of trustees, the zoning clearance permit may be issued by the town clerk-treasurer.

SECTION 12-207 EXISTING BUILDINGS AND USES NOT AFFECTED.

Any building, structure or use lawfully existing at the time of enactment of these regulations, may be continued, even though such building, structure or use does not conform with the provisions of these regulations.

SECTION 12-208 EFFECTIVE DATE.

This interim zoning ordinance shall become effective on June 1, 1983.

CHAPTER 3

FLOOD DAMAGE PREVENTION

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Section 12-318	Standards for subdivision proposals, flood hazard areas.
Section 12-319	Standards for areas of shallow flooding (AO zones).
Section 12-320	Floodways.

SECTION 12-301 FINDINGS OF FACT.

A. The flood hazard areas of the community are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are created by the cumulative effect of obstructions in flood plains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

SECTION 12-302 STATEMENT OF PURPOSE.

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

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 flood plains;

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

SECTION 12-303 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, these regulations are established to:

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 flood plains, 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 increase flood hazards to other lands.

SECTION 12-304 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. The following terms as used herein will mean:

1. "Appeal" means a request for a review of an interpretation by the community board of trustees or its designated agency of any provision of this chapter or a request for a variance;

2. "Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Flood insurance Rate Map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three (3) 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;

3. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V;

4. "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year;

5. "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;

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6. "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;
7. "Elevated building" means a nonbasement building:
 - a. Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and
 - b. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations;
8. "Existing construction" means for the purpose 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;
9. "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;
10. "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management 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. "Floodplain" or "flood prone area" means any land area susceptible to being inundated by water from any source (see definition of flooding);
13. "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;

14. "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;

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

16. "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";

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

18. "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;

19. "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;

20. "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;

21. "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. For flood plain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles;

22. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced;

23. "New construction" means, for flood plain management purposes, structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by a community;

24. "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, placement, or other improvement was within one hundred eighty (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 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;

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

26. "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

27. "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;

28. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided; and

29. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

SECTION 12-305 LANDS TO WHICH SPECIAL FLOOD HAZARD APPLIES.

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

SECTION 12-306 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency on its Flood Insurance Study for the community, with accompanying Flood Insurance Rate Maps (FIRM) and Flood Boundary-Floodway Maps (FBFM) and any revisions thereto are hereby adopted and incorporated herein by reference are declared to be a part of this chapter.

SECTION 12-307 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required to ensure conformance with the provisions of this chapter.

SECTION 12-308 COMPLIANCE.

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

SECTION 12-309 ABROGATION AND GREATER RESTRICTIONS.

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

SECTION 12-310 INTERPRETATION.

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

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

SECTION 12-311 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 community or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

SECTION 12-312 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Town of Hulbert is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Programs Regulations) pertaining to flood plain management.

SECTION 12-313 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;
2. Review permit applications to determine whether proposed building sites will be reasonably safe from flooding;
3. Review, approve or deny all applications for development permits required by adoption of this chapter;
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. 1934) from which prior approval is required;
5. Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions);
6. Notify, in riverine situations, 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 Emergency Management Administration;
7. Assure that flood carrying capacity within the altered or relocated portion of the watercourse is maintained;
8. When base flood elevation data has not been provided in accordance with Section 12-306, 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 12-316 et seq. of this code; and
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.

SECTION 12-314 PERMIT PROCEDURES.

A. Application for a development permit shall be presented to the floodplain administrator on forms developed 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:

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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 non-residential structure shall be flood-proofed;

3. A certificate from a registered professional engineer or architect that the non-residential floodproofed structure shall meet the floodproofing criteria of Paragraph 2 of Section 12-317 of this code;

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

5. Maintain a record of all such information in accordance with Paragraph 1 of Section 12-313.

B. Approval or denial of a development permit by the floodplain administrator 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 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; and

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

SECTION 12-315 VARIANCE PROCEDURES.

A. The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this chapter.

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B. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

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

D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Administration upon request.

E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

F. 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 Subsection B of Section 12-314 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.

G. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of Section 12-302 of this code.

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

I. 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 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.

J. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in Subsection A through I of this section are met; and
2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

SECTION 12-316 PROVISIONS FOR FLOOD HAZARD REDUCTION; 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 and utility equipment 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 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 discharges from the systems into flood waters; and
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 12-317 PROVISIONS FOR FLOOD HAZARD REDUCTION; SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sections 12-306, Paragraph 8 of Section 12-313 or Subsection D of Section 12-318 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 floodplain administrator that the standard of this paragraph, as proposed in Section 12-314 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

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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 a review structural design, specifications and plans for construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of this certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the floodplain administrator;

3. Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that 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 (2) 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; or
- 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; or

4. Manufactured homes.

- a. Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
- b. All manufactured homes shall be in compliance with this chapter; and
- c. Require that all manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufacturd home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this chapter.

SECTION 12-318

STANDARDS FOR SUBDIVISION PROPOSALS, FLOOD HAZARD AREAS.

A. All subdivision proposals shall be consistent with Sections 12-301 through 12-303 of this code.

B. All proposals for the development of subdivisions shall meet development permit requirements of Sections 12-307, 12-314 and 12-315 et seq. 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 12-306 and 12-313 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.

SECTION 12-319 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Located within the areas of special flood hazard established in this chapter are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; and therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the community's FIRM, or at least two (2) feet if no depth number is specified;

2. All new construction and substantial improvements of nonresidential structures shall:

- a. Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the FIRM, or at least two (2) feet if no depth number is specified; or
- b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and 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 12-314 of this code are satisfied; and

4. Adequate drainage paths around structures on slopes are required within Zones AH or AO to guide flood waters around and away from proposed structures.

SECTION 12-320 FLOODWAYS.

Floodways located within areas of special flood hazard established in this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

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1. Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during occurrence of the base flood discharge; and

2. If Paragraph 1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 12-316 et seq. of this code.

