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CHAPTER 12: PLANNING, ZONING AND DEVELOPMENT

ARTICLE 1

BOARDS AND COMMISSIONS

DIVISION 1

PLANNING COMMISSION

SECTION 12-101 PLANNING COMMISSION CREATED.

There is hereby created a Planning Commission of the Town, which shall consist of five (5) residents of the Town, nominated and appointed by the Mayor and Board of Trustees. The members of the commission shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation. Members may be removed by the Mayor and Board of Trustees for misconduct, inefficiency, neglect of duty or malefaction in office.

*State Law Reference:* Planning Commissions may be established, duties and powers, 11 O.S. Section 45-101 et seq.

SECTION 12-102 TERM OF OFFICE; PROVISION FOR VACANCIES.

Appointive members of the Town Planning Commission shall hold office for a term of three (3) years with the exception that in the first instance two (2) shall be appointed to serve a term of one year, two (2) for a term of two (2) years and two (2) for a term of three (3) years; appointments thereafter shall be made for a term of three (3) years. When a vacancy occurs the appointment shall be made to fill the unexpired term by the Mayor, with confirmation by the Board of Trustees.

SECTION 12-103 EX OFFICIO MEMBERS.

The Mayor shall be ex officio members of the Town Planning Commission, but shall receive no compensation other than their affixed salary as such officials.

SECTION 12-104 QUORUM.

A majority of the members of the Planning Commission shall constitute a quorum for the transaction of business. No action shall be taken and be binding upon the Town Planning Commission unless concurred in by not less than a majority of the quorum.

SECTION 12-105 MEETINGS; ORGANIZATION AND RULES

The members of the Town Planning Commission shall meet and organize by electing a chairman, a vice-chairman, and secretary, whose terms shall be one year with eligibility for re-election. The commission shall adopt from time to time such bylaws, rules, and regulations and amendments thereto as may be necessary to effectuate the purposes of this chapter.

SECTION 12-106 POWER TO EMPLOY STAFF.

The Planning Commission shall have the power and authority to employ planners, engineers, attorneys, clerks and other help deemed necessary within the limits of the appropriation fixed by the Board of Trustees. The salary and compensation of such employees shall be fixed by the Board of Trustees and shall be paid out of the Town treasury as are other officers and employees. The Town Planning Commission may incur necessary expenses within the limits of its appropriation to carry out its purposes and responsibility.

SECTION 12-107      POWERS AND DUTIES.

The Planning Commission shall have the power and the duty to prepare and recommend to the Board of Trustees for adoption a comprehensive plan for the physical development of the Town. In conducting its work the Planning Commission may consider and investigate any subject matter tending to the development and betterment of such municipality and may make recommendations as it may deem advisable concerning the adoption thereof to the Board of Trustees. The Planning Commission may make or cause to be made surveys, studies, maps, and plans in the conduct of its activities. Before final action is taken by the Board of Trustees on the location or design of any public building, statute, memorial, park, boulevard, street and alley, playground, public grounds, bridge or change in any location of any street or alley such question shall be submitted to the Planning Commission for investigation and report. In the preparation of the comprehensive plan the Planning Commission may from time to time prepare and recommend to the Board of Trustees for adoption a part or parts thereof, which parts shall cover one or more major geographical divisions of the Town or one or more major elements of the comprehensive plan. The Planning Commission may from time to time recommend extending, amending or changing any portion of the comprehensive plan.

SECTION 12-108      PURPOSES OF COMPREHENSIVE PLAN.

In the preparation of such plan, the Planning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the Town, and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the Town, and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.

SECTION 12-109      SUBDIVISION OF LAND.

The Planning Commission may prepare and recommend to the Board of Trustees for adoption rules and regulations governing the subdivision of land within the corporate limits of the Town. All plans, plats, or replats of land laid out in two (2) or more lots, plats, or parcels, or streets, or other ways intended to be dedicated to public use within the corporate limits of the Town shall first be submitted to the Planning Commission for its recommendations. The Planning Commission shall, with the help of appropriate municipal officials, check the proposed dedications or subdivision of land to insure compliance with the rules and regulations governing subdivisions of land and with other elements of the comprehensive plan for the Town. The disapproval of any such plan, plat, or replat by the Board of Trustees shall be deemed a refusal of the dedications shown thereon. No plat or replat of subdivision of land, or dedication of street or alley or other easement

shall be entitled to record unless it bears the signature of the Mayor, attested by the Town clerk, certifying the approval and acceptance thereof by the Board of Trustees.

SECTION 12-110 UNIFORMITY OF REGULATIONS

The Planning Commission may recommend the division of the Town into districts of such number, size, and area as may be deemed best suited to carry out the zoning purpose. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

SECTION 12-111 COMPREHENSIVE PLAN; PURPOSE OF REGULATIONS AND MATTERS CONSIDERED

Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town. The latest addition of the Comprehensive Plan of the Town of Lamont, Oklahoma, is on file in the Office of the Town Clerk and is incorporated herein by reference.

SECTION 12-112 PLANNING COMMISSION TO ACT AS ZONING COMMISSION.

The Town Planning Commission also shall act as the zoning commission and shall have the power to prepare and recommend to the Board of Trustees, zoning district boundaries and appropriate regulations relating to the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures, and land for trade, industry, residence, and other purposes.

DIVISION 2

BOARD OF ADJUSTMENT

SECTION 12-120 CREATION AND PROCEDURES, BOARD OF ADJUSTMENT ESTABLISHED.

There is hereby created a board of adjustment consisting of five (5) members, who shall be appointed for a term of three (3) years and removable for cause by the Board of Trustees upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The board of adjustment shall be appointed by the Mayor and Board of Trustees. The board of adjustment in effect on the effective date of this Section shall be constituted as the board of adjustment, with terms of three (3) years, or until their successors are appointed and qualified.

SECTION 12-121 MEETINGS AND RULES.

The board of adjustment shall elect one of its members as chairman. The board shall adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board of adjustment shall be subject to the open meeting laws of the state, and all meetings, deliberations and voting of the board shall be open to the public. The board shall keep the minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such facts, and shall keep records of all official actions, all of which shall be immediately filed in the office of the Town clerk and shall be a public record.

SECTION 12-122 APPEALS TO BOARD OF ADJUSTMENT.

A. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any administrative decision based on the Town's zoning regulations.

B. Such appeal shall be taken within thirty (30) days from the date of the decision by filing with the officer from whom the appeal is taken and with the Town clerk a notice of appeal specifying the grounds thereof, and by paying a filing fee established by the Town. In addition, the appellant shall pay the cost of publishing the notice of the public hearing and any other costs associated with the hearing. The appellant shall pay such fee and costs upon filing the appeal. The zoning officer shall transmit to the board of adjustment the documents constituting the record.

C. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay, in his opinion, would cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on the cause shown.

D. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the Town clerk to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of the written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing.

E. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:

1. Legal description of the property and the street address or approximate location in the municipality;
2. Present zoning classification of the property and the nature of the appeal or variance requested; and

3. Date, time and place of hearing.

F. Upon the hearing, any party may appear in person or by agent or by attorney.

SECTION 12-123      POWERS.

A. The board of adjustment shall have the power to:

1. Hear and decide appeals if it is alleged that there is error in any order, requirement, decision, or determination made by the zoning officer in the enforcement of the zoning regulations;

2. Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances as to use.

B. Variances may be allowed by the board of adjustment only after notice and hearing as provided in subsection D of Section 12-122 of this code. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance was established at the public hearing on the question, otherwise said variance or special exception shall be voidable on appeal to the district court.

SECTION 12-124      EXTENT OF RELIEF.

A. When exercising the powers provided for herein, the board of adjustment, in conformity with the provisions of this part may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination from which appealed and may make such order, requirement or determination as ought to be made.

B. The concurring vote of at least three (3) members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination being appealed from, to decide in favor of the applicant, or to decide any matter which may properly come before it pursuant to the zoning regulations.

SECTION 12-125      VARIANCES

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance may be granted, in whole or in part, or upon reasonable conditions as provided in this Article, only upon a finding by the board of adjustment that:

A. The application of the ordinance to the particular piece of property would create an unnecessary hardship;

B. Such conditions are peculiar to the particular piece of property involved;

C. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the comprehensive plan; and

D. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

SECTION 12-126      APPEAL TO DISTRICT COURT

A. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally, or any taxpayer, or any officer, department, board or bureau of the Town to the district court by filing a notice of appeal with the Town clerk and with the board of adjustment within sixty days from filing of the decision by the board, which notice shall specify the ground of such appeal. Upon filing of the notice of appeal as herein provided, the board shall transmit forthwith to the court clerk of the County of Grant the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board.

B. An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the ordinance; and upon notice to the chairman of the board of adjustment from which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

ARTICLE 2

ZONING REGULATION - RESERVED

ARTICLE 3

SUBDIVISION REGULATIONS - RESERVED

ARTICLE 4

FLOOD DAMAGE PREVENTION

SECTION 12-401      STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in 82 O.S. 1981, 1601 et seq. delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Trustees of the Town of Lamont, Oklahoma does adopt this Article 4.

SECTION 12-402      FINDINGS OF FACT



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

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

#### SECTION 12-403 STATEMENT OF PURPOSE.

A. It is the purpose of this Article 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 that potential buyers are notified that property is in a flood area.

#### SECTION 12-404 METHODS OF REDUCING FLOOD LOSSES.

A. In order to accomplish its purposes, this article uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in the times of flood, or in case of excessive increase 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;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### SECTION 12-405      DEFINITIONS

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

1. "Alluvial Fan Flooding" means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, deposition; and unpredictable flow paths.

2. "Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

3. "Area of shallow flooding" means a designated AO, AH, or VO Zone in 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.

4. "Area of special flood hazard" is the land in the flood plain 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 rate making 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.

5. "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

6. "Basement" means any area of the building have its floor sub-grade (below ground level) on all sides.

7. "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.

8. "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.

9. "Elevated building" means a non-basement building (i) 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 (ii) 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 case of Zones A1-30, AE, A, A99, 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, 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.

10. "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".

11. "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 flood plain management regulations adopted by a community.

12. "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).

13. "Flood or Flooding" means a general and temporary condition or partial or complete inundation of normally dry land areas from:

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

14. "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.

15. "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 Flood Boundary-Floodway Map.

16. "Flood plain or flood-prone area" means any land area suspect able to being inundated by water from any source (See definition of flooding).

17. "Flood plain 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 flood plain management regulations.

18. "Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain 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.

19. "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.

20. "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.

21. "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.

22. "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 and passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

24. "Historical structure" means any structure that is:

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;

b. 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;

c. 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

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

By an approved state program as determined by the Secretary of the Interior or;

Directly by the Secretary of the Interior in states without approved programs.

25. "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.

26. "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.

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

28. "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".

29. "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.

30. "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 are shown on a community's flood insurance rate map are referenced.

31. "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 the initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

32. "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 flood plain management regulations adopted by a community.

33. "Recreational vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

34. "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, placement, or other improvements 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 a 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 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.

35. "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.

36. "Substantial damage" means 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.

37. "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either, 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or 2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

39. "Violations" means the failure of a structure or other developments 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.

40. "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 river areas.

#### SECTION 12-406      LANDS TO WHICH THIS ORDINANCE APPLIES.

The Article shall apply to all areas of special flood hazard with the jurisdiction of the Town of Lamont.

#### SECTION 12-407      BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Town of Lamont," dated 18th day of November, 1992, with accompanying Flood Insurance Rate Maps and Flood Boundary--Floodway Maps (FIRM and FBFM) any revisions thereto are hereby adopted by reference and declared to be a part of this article.

#### SECTION 12-408      ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION 12-409 COMPLIANCE.

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

SECTION 12-410 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 another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-411 INTERPRETATION.

In the interpretation and application of this article, all provisions shall be: 1) considered as minimum requirement; 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 12-412 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this article 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 cause. This article does not imply to that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article 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 this article or any administrative decision lawfully made there under.

SECTION 12-413 DESIGNATION OF THE FLOOD PLAIN ADMINISTRATOR.

The Mayor is hereby appointed the flood plain administrator to administer and implement the provisions of this article and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to flood plain management.

SECTION 12-414 DUTIES AND RESPONSIBILITIES OF THE FLOOD PLAIN ADMINISTRATOR.

A. Duties and responsibilities of the flood plain 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 ordinance.

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 this article;

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 is required;

5. When 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 flood plain administrator shall make the necessary interpretation.

6. Notify, in river rain situations, adjacent communities and the state coordinating agency which is the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the 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 12-407, the flood plain 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 for flood hazard reduction.

9. When a regulatory has not been designated the flood plain administrator must require that no new constructions, substantial improvements, or other developments (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 applies for a conditional FIRM revision through FEMA.

#### SECTION 12-415 PERMIT PROCEDURES.

A. Application for a development permit shall be presented to the flood plain 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 flood proofed;

3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of this Article;

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 12-414.A.1.

B. Approval or denial of a development permit by the flood plain administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger of 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.

#### SECTION 12-416 VARIANCE PROCEDURE

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

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

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 flood plain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

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

F. 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 this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

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

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

I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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.

3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.

4. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduction of a functionally dependent use provided that (i) the criteria outlined in Section 12-416 are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

SECTION 12-417      GENERAL STANDARDS

A. 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 danger;
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; and,
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.

SECTION 12-418      SPECIFIC STANDARDS

A. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 12-407, (ii) Section 12-414A.8., or (iii) Section 12-419.C., the following provisions are required:

1. Residential construction--new construction and substantial improvements 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 flood plain administrator that the standard of this subsection as proposed in Section 12-415A., 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. A

record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures is flood proofed shall be maintained by the flood plain administrator.

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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

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 flood waters.

4. Manufactured homes.

a. Require that all manufactured homes to be placed within Zone A on a community's FHBMs or FIRM shall be installed using methods and practices which minimize flood damage. 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.

b. Require that all manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (1) 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.

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 either:

The lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely

anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

5. RECREATIONAL VEHICLES - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE as provided on federal maps FIRM either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, and (iii) meet the permit requirements of Section 12-415, 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.

SECTION 12-419      STANDARDS FOR SUBDIVISION PROPOSALS.

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Article.

B. All proposals for the development of subdivisions including manufactured home parks and subdivision shall meet development permit requirements of Section 12-408; Section 12-416; and the provisions for flood hazard reduction, Section 12-417.

C. Base Flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 12-408 or Section 12-415 or this article.

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

E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

SECTION 12-420      STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

A. Located within the areas of special flood hazard established in Section 12-407, 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 flow 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 nonresidential structures;

a. Have the lowest floor (including basements) 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 flood plain administrator that the standards of this article, as proposed in Section 12-407, are satisfied.

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

SECTION 12-421 U.S.E.P.A. WAIVER REQUIRED.

Irrespective of any other provisions to the contrary herein, from and after the effective date of this Article, there shall be no new development permitted within the 100-year flood plain (as defined on the latest publication of the national Flood Insurance Program's Flood Insurance Rate Map for the Town of Lamont) which would generate wastewater to be transported to the Wastewater Treatment Facilities of the Town of Lamont.

An owner/developer of property situated in the said flood plain may make request, in writing, to the Flood plain Administrator for a "Waiver of Service Area Restriction" only in cases where the said owner/developer can sufficiently show that the natural environment in the 100 year flood plain would be preserved if the waiver was granted. Said written request for a "Waiver of Service Area Restriction" shall be denied. Should the finding of the Flood plain Administrator be that the requested waiver would not violate the intent of this Article, nor have detrimental effect upon the natural functions and values of the affected flood plain, then such a request would be presented to the Board of Trustees of the Town of Lamont for their consideration and possible approval. Only after Board of Trustees the Flood plain Administrator would then submit request to the U.S. Environmental Protection Agency's Regional Administrator for review and possible approval. It is specifically the intent of this Article that the said Regional Administrator be the final authority in all such requests for a "Waiver of Service Area Restriction".