

ORDINANCE NO. 1333

AN ORDINANCE OF THE CITY OF DEL CITY, OKLAHOMA AMENDING CHAPTER 16 (PLANNING AND DEVELOPMENT), ARTICLE III (DRAINAGE), ARTICLE IV (FLOOD DAMAGE PREVENTION) AND ARTICLE V (SURFACE WATER CONTROL) OF THE DEL CITY CODE OF ORDINANCES; ENACTING REQUIREMENTS FOR DRAINAGE PLANS AND IMPROVEMENTS; SETTING A PENALTY FOR DRAINAGE VIOLATIONS; PROVIDING FOR ABATEMENT OF VIOLATIONS RELATING TO DRAINAGE; ESTABLISHING A DRAINAGE FEE AND METHOD OF COLLECTION; ENDORSING A NO ADVERSE IMPACT APPROACH TO FLOODPLAIN MANAGEMENT; ADOPTING A FLOOD INSURANCE STUDY AND RELATED MAPS; PROVIDING FOR ADMINISTRATION OF A FLOODPLAIN MANAGEMENT PROGRAM; ENACTING REQUIRMENTS FOR DEVELOPMENT WITHIN AREAS OF SPECIAL FLOOD HAZARD AND REGULATING DEVELOPMENT WITHIN AND OUTSIDE OF FLOODPLAINS; ESTABLISHING A FLOODPLAIN DEVELOPMENT PERMIT AND PERMIT FEE; SETTING A PENALTY FOR FLOODPLAIN MANAGEMENT VIOLATIONS; PROVIDING FOR ABATEMENT OF VIOLATIONS RELATING TO FLOODPLAIN MANAGEMENT; RENAMING ARTICLE V; ENACTING REQUIRMENTS FOR PRESERVATION OF STORMWATER QUALITY; ESTABLISHING A GRADING PERMIT AND PERMIT FEE; SETTING A PENALTY FOR VIOLATIONS RELATING TO STORMWATER QUALITY; PROVIDING FOR ABATEMENT OF VIOLATIONS RELATING TO STORMWATER QUALITY; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEL CITY,  
OKLAHOMA:

Section 1: Sections 16-36 through 16-47 (Article III of Chapter 16, Planning and Development) of the Del City Code of Ordinances are hereby repealed and replaced as follows, and Sections 16-30 through Sections 16-49 are hereby added as follows:

Article III. Drainage.

Section 16-30. Title.

This Article may be known as the Drainage Ordinance of the City of Del City.

#### Section 16-31. Scope.

The provisions of this article apply to all land within the City of Del City, excluding land without habitable structures actively used for agricultural purposes.

#### Section 16-32. Accommodation for localized conditions.

The nature of drainage within Del City is such that certain localized conditions may exist that render the strict application of this ordinance to be impossible without excessive hardship to the applicant. As such, the Building Official, in consultation with the Public Works Director and the Floodplain Administrator and with the approval of the City Manager, may make modifications to the requirements contained within this article, provided that those modifications may not result in a foreseeable likelihood of damage to any property within the watershed and provided that the modifications allowed are the minimum necessary to remove the excessive hardship.

#### Section 16-33. Engineering Standards.

All drainage plans, engineering studies and designs for drainage improvements shall be created in accordance with commonly accepted engineering standards. Flow rates shall be calculated in accordance with common engineering practices. Unless otherwise specified, all designs should be made to accommodate the one percent chance rain event and all lesser events.

#### Section 16-34. Drainage Plans

For all projects related to development or redevelopment on an area of land exceeding one acre, for all subdivision proposals, for any smaller project judged by the Building Official to have the potential to adversely affect other properties within the watershed, and for any proposal for public acceptance of drainage structures or channels, a drainage plan must be prepared by a registered professional engineer and submitted to the Building Official for approval. This plan must detail existing, proposed and fully urbanized conditions and must show all proposed drainage improvements. Calculations must be provided and must be supported by

sound technical data. In the event that it is required for proper evaluation of the proposed drainage plan, the Building Official may require the creation and submission of detailed topographical information (one foot contour interval). Proposed drainage plans must be submitted in paper (3 copies, at least one of which is on standard letter-sized paper) and electronic format (Adobe PDF format or equivalent). In addition, where computerized means are used to make drainage calculations, the output data should be provided in an electronic format able to be easily examined and manipulated.

#### Section 16-35. Outside drainage review.

All projects requiring submission of a drainage plan are subject to outside review. This review will be undertaken by a registered professional engineer selected by the Building Official, in consultation with the Public Works Director and the Floodplain Administrator. The party submitting the drainage plan will bear the full cost of this review, with the applicable fee being paid directly to the reviewing engineer. At the request of the party submitting the drainage plan, the City will obtain a minimum of two written bids for this review and will select the engineer presenting the lowest bid.

#### Section 16-36. Drainage improvements.

Drainage plans must provide for collection and conveyance of the one percent chance rain event, provided that closed storm sewer and appurtenances thereto of sufficient size must be provided to collect and convey the twenty percent rain event. Provision must be made to accommodate increased flows created by failures or blockages. Design of closed storm sewer and any other drainage improvements must be in accordance with commonly accepted engineering standards that maximize stormwater quality and minimize maintenance requirements.

Alternatives to closed storm sewer will be permitted at the discretion of the Building Official only when functionally equivalent and proven to provide beneficial impact on stormwater quality or maintenance requirements.

#### Section 16-37. Detention required.

Stormwater detention to accommodate the one percent chance rain event and all lesser events is required of all new construction and for all redevelopment that adds impervious surface. Detention must be

designed to ensure that post-development runoff does not exceed runoff created by conditions existing at the time of commencement of work. Detention must be constructed in accordance with commonly accepted engineering standards that maximize stormwater quality and minimize maintenance requirements. Detention must be designed so as not to create a public nuisance, including any hazard to aviation created by attraction of wildlife or waterfowl. Development or redevelopment on single residential lots not exceeding one acre in size is exempt from this requirement.

#### Section 16-38. Drainage easements.

Any drainage plan calling for discharge or conveyance of stormwater across the surface of the land, whether to provide primary discharge of the one percent rain event or to provide secondary discharge in the event of an obstruction or blockage in a drainage system, shall require the dedication of such land to the City in the form of a drainage easement. Acceptance of a drainage easement does not obligate the City to maintain the area contained within the easement, but merely indicates that the land is reserved for drainage purposes. Maintenance responsibility within drainage easements shall be governed by the provisions of this article.

#### Section 16-39. Modification.

No modifications, including grading or paving, of an area covered by an approved drainage plan will be permitted unless the plan is updated.

#### Section 16-40. Performance based standards.

In the event that a drainage problem exists or a nuisance occurs after a drainage plan is approved and the required improvements are constructed, the property owner is responsible for submitting a revised plan and taking any corrective action necessary to resolve the problem or abate the nuisance.

#### Section 16-41. Phasing of construction.

Drainage improvements should be installed before impervious surface is added to a project site. In the event that this sort of phasing is not possible, alternative measures must be taken to ensure that historical runoff rates are not exceeded and that stormwater quality is preserved.

#### Section 16-42. Responsibility to maintain drainage areas.

Property owners are responsible for inspecting and maintaining drainage improvements as needed, as well as for keeping clear any drainage easements and unimproved channels located on their property. In the event that responsibility for inspection and maintenance and/or clearing of debris is assigned to a property owners association, the person who originally caused the improvement to be made remains ultimately responsible in the event the property owners association fails to meet its obligations. The City only assumes responsibility for maintaining a drainage improvement if it is conveyed to and accepted by the City and becomes public property. The City assumes no responsibility for maintaining a drainage easement or unimproved channel unless title to the property has been conveyed to and accepted by the City and the area contained within the easement becomes public property. Drainage improvements lacking proper maintenance and/or drainage easements and unimproved channels not cleared of debris are hereby declared to be a public nuisance subject to abatement according to the provisions of this article. Nothing contained within this section shall limit or impede the ability of the City to use existing or future drainage easements for their intended purposes, nor shall it impair any right of entry or use granted by any such easement.

#### Section 16-43. Acceptance of drainage improvements.

Drainage improvements may be conveyed to and accepted by the City only in the event that such an acceptance serves a public purpose.

Any property owner seeking City acceptance of drainage improvements must provide all of the following:

- a) Approved drainage plan for the entire site from which the drainage improvement serves to collect, convey or detain stormwater ;
- b) As-built drawings of the improvements;
- c) Report of a registered professional engineer as to the performance and condition of all improvements;
- d) Maintenance and inspection reports for the life of the improvement;
- e) Maintenance bond in the amount of one hundred percent of the replacement cost of the improvement, valid for five years and naming the City as beneficiary. For newly constructed improvements, the replacement cost is defined as the contract price plus a ten percent premium. For existing improvements,

the replacement cost must be determined by a registered professional engineer.

In the event that the improvement is found to have deficiencies related to performance or condition, it shall not be accepted. In the event that the property owner makes repairs and a subsequent report is issued by a registered professional engineer indicating no remaining deficiencies, the property owner may reapply for acceptance of the improvement.

Nothing contained within this article shall, in any way, obligate the City to accept a drainage improvement.

#### Section 16-44. Violations and penalty.

Failure to comply with a provision contained within this article is a violation of city code and is hereby found to be a public nuisance. Each day a violation is allowed to persist is considered to be a separate violation. The penalty for such a violation is a fine not to exceed seven hundred fifty dollars and/or imprisonment for a term not to exceed sixty days, plus costs.

#### Section 16-45. Abatement - Generally.

The City may act to abate a nuisance created by violation of a provision contained within this article. A minimum of ten days written notice shall be given by mail and posting on the property, after which the violation may be abated by city employees or a private contractor. After assessment of the abatement costs by the City Council, the actual costs of the abatement plus a fee representative of administrative costs shall be charged to the owner and, if not paid, shall become a lien against the property having been abated. In the event that the same violation reoccurs within six months, it may be abated with no further notice required. Unpaid abatement costs are grounds for immediate termination of city utility service and termination of any certificates of occupancy for the affected property.

#### Section 16-46. Abatement - Emergency.

If a violation of this article has the potential to cause imminent harm to any person or property within the watershed, the Building Official may cause the violation to be abated immediately and by any means available. As soon as is practicable following the abatement action, notice of the

abatement shall be given to the owner of the property. Procedures for assessment of costs and reabatement shall be as specified in this article.

Section 16-47. Drainage fee - Schedule of fees.

There is hereby established a drainage fee, to be paid by owners or occupants of all properties within Del City. Said fee shall be payable monthly on a schedule of billing and invoices to be established by the City Manager. The schedule of monthly fees shall be as follows:

Single-family residential property...\$1.00  
Multiple-family residential property, per residential building...\$1.00  
Commercial property (42,000 sq. ft. or less paved surface)...\$1.00  
Commercial property (over 42,000 sq. ft. paved surface)...\$2.50

Section 16-48. Drainage fee - Collection.

The City Manager shall establish an efficient billing system by which to collect the drainage fee. The City Council may contract with another governmental or private entity, including but not limited to the Del City Municipal Services Authority, for collection of the drainage fee. Said contract may provided for the entity collecting the fee to retain a reasonable share to recover costs of collection.

Section 16-49. Drainage fee - Uses.

In order to maintain a safe and efficient system to collect drainage from public and private property within the City of Del City, the drainage fee shall be deposited in the General Fund and shall be used only for the construction, maintenance, cleaning, and other improvements to existing and new drainage ways and structures within the City of Del City and for equipment to be used for said construction, maintenance, cleaning, and other improvements, unless a four-fifths majority of the Del City Council votes otherwise.

Section 2: Sections 16-56 through 16-110 (Article IV of Chapter 16, Planning and Development) of the Del City Code of Ordinances are hereby repealed and replaced as follows, and Sections 16-50 through Sections 16-129 are hereby added as follows:

Division 1: General.

Section 16-50. Title.

The provisions contained within this Article shall be known as the Flood Damage Prevention Ordinance of the City of Del City, hereinafter referred to as "this ordinance".

Section 16-51. Scope.

The provisions of this ordinance shall apply to all development that is wholly within, partially within, or in contact with any area of special flood hazard, including but not limited to the subdivision of land; filling, grading, and any other site improvements and utility installations; construction, alteration, remodeling, enlargement, replacement, repair, relocation or demolition of any building or structure; placement installation of manufactured homes; storage of hazardous materials; installation or replacement of tanks; placement of temporary structures and temporary storage of materials; and installation of swimming pools, storm shelters, fences, accessory buildings, utility and miscellaneous structures. The provisions of this ordinance also apply to development related to critical facilities in areas subject to inundation by flooding and to development and redevelopment of land that could create flood hazard, even if such development is located outside of a defined area of special flood hazard. Areas of land proposed for development or redevelopment but lacking data necessary to determine whether the proposed development will be reasonably safe from flooding, whether inside or outside of an area of special flood hazard, are subject to the requirements of this ordinance related to provision of detailed data and compliance with mapping and study standards.

Section 16-52. Statement of purpose.

The purpose of this ordinance is to promote the health, safety and general welfare of the community by establishing minimum requirements for development in and around areas of flood hazard. Specifically, this ordinance seeks to reduce the frequency and severity of public and private flood losses by means of minimum requirements designed to:

- 1) Reduce the potential for loss of human life and detriment to public health and safety caused by flooding;
- 2) Minimize unnecessary disruption of commerce and interruption of public services during times of flooding;
- 3) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- 4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential;



- 5) Minimize the need for future of expenditure of public funds for flood control projects and for rescue and relief efforts associated with flooding;
- 6) Manage the alteration of flood hazard areas and stream channels to minimize the impact of development on the natural and beneficial functions of the floodplain;
- 7) Maintain a stable community by providing for the sound use and development of flood-prone areas in such a manner as to minimize future blighted conditions resulting from flood damage and to encourage responsible redevelopment of blighted conditions within flood hazard areas;
- 8) Minimize damage to public and private facilities, utilities and infrastructure;
- 9) Ensure that planning and construction of all development within areas of flood hazard addresses and mitigates potential adverse impacts on properties throughout the watershed and entire community; and
- 10) Allow for the availability of reasonably priced flood insurance by meeting the minimum requirements for community participation in the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR 59.22 and 44 CFR 60.3(d).

Section 16-53. Findings of fact.

The following findings are hereby made:

- 1) Areas exist within the City of Del City that are subject to periodic inundation by flooding which results in loss of life and property, creation of health and safety hazards, disruption of commerce and public services, and expenditure of public funds for disaster relief and flood protection, all of which adversely effect the public health, safety, and general welfare.
- 2) The potential for flood damage has been increased by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses and structures vulnerable to flooding.
- 3) Where possible, restoring the natural and beneficial functions of the floodplain will lead to decreased frequency and severity of flood damage.
- 4) Adoption of certain higher regulatory standards, over and above the minimum standards required for community

participation in the National Flood Insurance Program, will have the effect of reducing the potential for future flood damage throughout the affected watersheds.

#### Section 16-54. Methods of reducing flood loss.

The following methods are employed within this ordinance in order to reduce the frequency and severity of flood losses:

- 1) Restriction or prohibition of uses or structures that could cause increases in flood heights or velocities or that are dangerous to health, safety or property in times of flooding;
- 2) Require that uses and structures located in areas of flood hazard be protected against flood damage at the time of initial construction or substantial improvement;
- 3) Control the alteration of floodplains, stream channels, and other natural features involved in the accommodation of floodwaters;
- 4) Control filling, grading, dredging and other development which may lead to a degradation of the storage capacity of the floodplain;
- 5) Prevent or regulate the construction or placement of obstructions which will unnaturally divert floodwaters or which may lead to an increase in flood hazards to other properties within the watershed; and
- 6) Require that detailed hazard information be developed for any development or redevelopment that could lead to establishment of new flood hazard areas or exacerbation of existing flood hazards.

#### Section 16-55. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance exceeds the minimum standards required for community participation in the National Flood Insurance Program and is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the identified flood hazards areas or that development permitted within such areas will be free from flooding or flood damages. This ordinance and its implementation 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 ordinance or any administrative decision lawfully made hereunder.

#### Section 16-56. Interpretation.

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

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

#### Section 16-57. Abrogation, greater restrictions and effect on zoning ordinance and adopted codes.

This ordinance is not intended to repeal or abrogate any existing ordinances, including the City's adopted building codes. This ordinance is not intended to amend the Del City Planning and Zoning Ordinance or the subdivision regulations contained therein, but the provisions related to protecting subdivisions from flood damage should be considered additional regulations required. This ordinance shall not impair any deed restriction, covenant or easement, but the land subject to such interests shall be governed by this ordinance. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall govern. In the event of a conflict between this ordinance and a provision of state statute, this ordinance shall govern in all matters considered to be those of exclusive local concern. When there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable, except in a case wherein application of the specific requirement would cause a situation in which development that would not be reasonably safe from flooding or that would create a hazard for another property would be permitted.

#### Section 16-58. Coordination with building codes.

This ordinance is intended to be administered and enforced in conjunction with the provisions of the City's adopted building codes, which contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Unless otherwise specified herein, the term "adopted building codes" refers to the currently adopted versions of the International Building Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, International Fire Code, International Private Sewage Disposal Code, International Property Maintenance Code and National Electrical Code, together with any local modifications, amendments, and adopted

appendices. Without amendment, these codes contain provisions sufficient to meet the minimum standards for community participation in the National Flood Insurance Program. Every effort has been made to ensure that these codes have been modified to reflect certain higher regulatory standards contained within this ordinance. In the event of a conflict between a higher regulatory standard contained within this ordinance and a minimum standard provision contained within the City's adopted building codes, the higher regulatory standard shall be applied.

#### Section 16-59. Definitions.

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

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

**ALTERATION OF A WATERCOURSE** - An alteration of a watercourse includes, but is not limited to, any dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area or capacity, which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions up to and including the base flood.

**AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area is shown on the City's adopted Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, and AH. This term also includes areas shown on other maps that may be adopted detailing local regulatory floodplains.

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

**BASE FLOOD ELEVATION (BFE)** - is the water surface elevation of the base flood in relation to the datum specified on the FIRM.

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

**BUILDING OFFICIAL** - means the individual designated in Chapter 5 of the Del City Code of Ordinances as responsible for administration and enforcement of building codes.

**CRITICAL FACILITY** - means any of the following:

- 1) Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- 2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- 3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- 4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

**DESIGN FLOOD ELEVATION** - means an elevation, greater than that of the base flood, designated within this ordinance and used for regulatory purposes.

**DEVELOPMENT** - means any man-made change to improved or unimproved real estate, including but not limited to:

- a) Construction, placement, repair, remodeling, or demolition of buildings, temporary structures, accessory structures, tanks, oil and gas equipment, or other structures or appurtenances thereto;
- b) Grading, filling, paving, drilling, mining, dredging or excavating;
- c) Storage of equipment or materials.

**ENCROACHMENT** - means the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of a floodplain.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

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

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, or the official digital representations thereof, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

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

**FLOODPLAIN DEVELOPMENT PERMIT** - means the official document issued by the Floodplain Administrator which authorizes performance of a specific development at a certain location within an area of special flood hazard.

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

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

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

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

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

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

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

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

- a) By an approved state program as determined by the Secretary of the Interior or;
- b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

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

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement), or the lowest horizontal structural member of a manufactured home.

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

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

MARKET VALUE - means, for purposes of determining substantial damage and substantial improvement, the value of the structure and any attached improvements. The assessed value of a structure, as determined by the Oklahoma County Assessor, shall be presumed to be the market value unless evidence of an alternative valuation is presented to and accepted by the Floodplain Administrator. The Floodplain Administrator is ultimately responsible for determining the market value of a structure, although an appeal can be made to the Board of Adjustment.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction"



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

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

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

**SUBSTANTIAL DAMAGE** - means damage of any origin, occurring either as a result of a defined event or over a period of time, sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during the life of the structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed.

**VARIANCE** - is a grant of relief to a person from a requirement of this ordinance which permits development in a manner that would be otherwise prohibited. Variances are limited to the minimum necessary to provide relief.

**VIOLATION** - means any act or failure to act rendering development non-compliant with the regulations contained in this ordinance. Development undertaken without a valid floodplain development permit is presumed to be in violation until such a permit is obtained. A structure lacking required documentation, including a properly completed Elevation Certificate, is presumed to be in violation.

**WATER SURFACE ELEVATION** - means the height, in relation to the datum specified in the adopted Flood Insurance Study, of floods of various magnitudes and frequencies in the a riverine floodplain.

**WATERCOURSE** - means a lake, river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Division 2: Flood hazard areas.

Section 16-60. Lands to which this ordinance applies.

This ordinance shall apply to all areas of special flood hazard (1% annual chance floodplain) within the jurisdiction of the City of Del City, Oklahoma. Provisions of this ordinance relating to protection of critical facilities shall apply to all areas designated as being within the boundaries of the .2% annual chance floodplain within the jurisdiction of the City of Del City. Mapping standards contained within this ordinance shall apply to all areas within the jurisdiction of the City of Del City.

Section 16-61. Basis for establishing areas of special flood hazard, regulatory floodways and other flood hazard areas.

The *Flood Insurance Study for Oklahoma County, Oklahoma and Incorporated Areas*, dated December 18, 2009 and published by the Federal Emergency Management Agency, and its accompanying Flood Insurance Rate Maps, are hereby adopted. The base flood elevations, delineations of Areas of Special Flood Hazard and regulatory floodways, and designation of risk zones including Zone X (Unshaded), Zone X (Shaded), and Zone AE contained within this study and these maps are hereby adopted. For the purpose of compliance with the regulations contained within this ordinance, letters of map change revalidated or subsequently approved by the Federal Emergency Management Agency will be considered as part of this Flood Insurance Study and of these Flood Insurance Rate Maps.

These documents represent the best available data for the purpose of regulating development within areas of special flood hazard and as such shall be permitted to become effective before the official date shown thereon, provided that no permit shall be issued before that official date for any development proposed for an area for which the water surface elevation of the base flood is shown to be lower in these documents than in the previously adopted Flood Insurance Study, unless that development would have been permitted based on the water surface elevations contained in that previous study.

Division 3: Floodplain administrator.

Section 16-70. Designation of floodplain administrator.

The City Manager shall, in writing, designate a floodplain administrator for the purpose of administering and enforcing the provisions of this article. The floodplain administrator shall have the authority to render

interpretations of this ordinance and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of this ordinance. Such interpretations, policies and procedures shall not have the effect of waiving requirements specifically provided for in this ordinance without the granting of a variance.

Section 16-71. Duties and responsibilities of floodplain administrator.

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

1. Maintain, and make available for inspection when duly requested, all records pertaining to the provisions of this ordinance (including elevation certificates for all structures constructed or substantially improved within the Special Flood Hazard Area after December 18, 2009).
2. Review applications for floodplain development permits to ensure that:
  - a. the proposed development will be reasonably safe from flooding and will not cause adverse impacts to any other property within the community;
  - b. all documentation and flood hazard data necessary to evaluate the permit application has been submitted;
  - c. the proposed development is in compliance with the provisions of this ordinance;
  - d. the proposed development will not cause a decrease in the flood carrying capacity of any watercourse.
  - e. all necessary permits and approvals have been obtained from those federal, state and local agencies from which prior approval is required, including those permits required under Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334), and
  - f. for proposed development consisting of improvements to an existing structure, the value of the proposed improvements, when combined with the value of all other improvements having occurred over the life of the structure, does not constitute substantial improvement unless the proposed development will result in a structure that is compliant with all applicable floodplain management regulations.

3. Approve, approve with modification, or deny floodplain development permit applications and, when approved, cause the issuance thereof.
4. Monitor the progress of permitted development, conduct necessary inspections and take appropriate enforcement action.
5. Remain aware of unpermitted development and take appropriate enforcement action.
6. Issue all necessary notices or orders to ensure compliance with this ordinance.
7. Make necessary interpretations as to the exact location of the boundaries of Areas of Special Flood Hazard and of the various zones as designated on the adopted Flood Insurance Rate Map and determine, for regulatory purposes, exact base flood elevations at a specific point within an Area of Special Flood Hazard based on the best available data.
8. Ensure that, for areas where base flood elevation data has not been provided, the best available data is used to administer the provisions of this ordinance.
9. Ensure that, where a regulatory floodway has not been designated, no development shall be permitted 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 unless the community has first made application for a conditional letter of map revision.
10. Ensure that, where a regulatory floodway has been designated, no development shall be permitted unless it is demonstrated that the effect of the proposed development will not cause a rise in the water surface elevation of the base flood at any point in the community unless the community has first made application for a conditional letter of map revision.
11. Review applications for letters of map revision and conditional letters of map revision and, before providing community endorsement, make a determination that the proposed map change is in the best interest of the community and will not serve to create adverse impacts on any property in the community.
12. Ensure that the flood carrying capacity of any altered or relocated watercourse or portion thereof is maintained.
13. For any structure located within an Area of Special Flood Hazard that sustains damage from any origin, determine whether or not the structure has been substantially damaged.

14. Conduct outreach and training for city employees and members of the public related to floodplain management.
15. Notify adjacent communities and the state coordinating agency (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.
16. In the event that a structure is found to have been built or substantially improved in violation of this ordinance, take appropriate enforcement action and, after exhausting enforcement remedies, submit a declaration of such violation to the Federal Emergency Management Agency for the purpose of denial of insurance coverage under Section 1316 of the National Flood Insurance Act.
17. Coordinate with the city's Building Official to assure that applications for building permits comply with the applicable requirements of this ordinance.
18. Notify the state coordinating agency and the Federal Emergency Management Agency of any modifications to the corporate limits of the city.

Section 16-72. Accreditation of floodplain administrator.

As soon as is practicable following this designation, the Floodplain Administrator must be accredited by the Oklahoma Water Resources Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.

Section 16-73. Assistance in times of disaster.

In times of flooding or other disaster impacting structures within an area of special flood hazard, the floodplain administrator, with approval of the City Manager, is authorized to request and accept assistance from any qualified source, including floodplain administrators and building officials from other communities, staff from federal and state agencies including the Federal Emergency Management Agency and Oklahoma Water Resources Board, and members of disaster relief organizations including the Oklahoma Floodplain Managers Association's Disaster Response Team.

Division 4: Floodplain development permits, elevation certificates and letters of map change.

Section 16-80. Establishment of development permit.

A floodplain development permit is hereby established. No development within an Area of Special Flood Hazard shall occur until the property owner and entity intending to complete the work have applied for such a permit and such a permit has been issued.

Section 16-81. Permit fee.

The fee for issuance of a floodplain development permit shall be as follows:

- a) For development occurring on a single residential lot, twenty-five dollars (\$25).
- b) For development occurring across multiple residential lots, one-hundred dollars (\$100).
- c) For development occurring on a single non-residential lot, one hundred dollars (\$100).
- d) For development occurring across multiple non-residential lots, five hundred (\$500) dollars.
- e) For any development requiring submittal of an application for Conditional Letter of Map Revision, development involving relocation or alterations to a channel or watercourse, or any development proceeding under a "Zero-Rise Certification", one thousand dollars (\$1000) plus the cost of project review by a registered professional engineer or Certified Floodplain Manager chosen by the floodplain administrator, with these review costs paid directly to the reviewer.
- f) There shall be no permit fee collected for development limited to regular channel maintenance.

For any permit application submitted after work has begun, a penalty fee equal to three (3) times the fee that would otherwise be applicable shall be collected, provided that this penalty fee may be waived and the originally applicable fee collected in the event that the applicant demonstrates that the error was made in good faith and was not fraudulent or habitual in nature.

For good cause, the Floodplain Administrator, at the direction of the City Manager, may waive or reduce the permit fee for a particular permit.

Section 16-83. Standards for Permit Issuance.

Application for a Floodplain Development Permit must be made on the forms provided by the Floodplain Administrator. Permit applications must be completed in full and must include all documentation needed to demonstrate compliance with the regulations contained within this Article.

The documentation required will differ based on the nature of the proposed development, and the determination as to what documentation is required will be made by the Floodplain Administrator. For any type of development, the Floodplain Administrator may require submission of a detailed site plan prepared by an appropriate design professional that documents the location of any proposed development in relation to the location of floodways, floodplain zones and any natural or man-made feature that may have a bearing on the issuance of a Floodplain Development Permit. The Floodplain Administrator may also require the submission of topographic data to support a permit application.

The Floodplain Administrator may, at any time, choose to rely on the best available data in order to make a decision regarding approval or denial of a permit application. Additionally, any permit application may be approved with conditions or restrictions. These conditions or restrictions shall be considered accepted by the applicant upon issuance of the permit and commencement of work. Failure to comply with such conditions or restrictions invalidates the permit and is considered to be a violation subject to criminal prosecution and/or administrative action.

#### Section 16-83. Permit Issuance.

Approval or denial of a Floodplain Development Permit is subject to the following factors:

- a) Compliance with the regulations set forth in this Article, including the intent of these regulations to provide for decreased frequency and severity of flooding and to reduce damage to life and property.
- b) The potential danger to life and property due to damage from flooding or erosion, including the susceptibility of the proposed facility and its contents to flood damage, the safety of access to the property in times of flooding, and the danger that materials may be carried onto other properties by floodwaters.
- c) The costs of providing governmental services during and after flood conditions.



- d) The expected height and duration of flooding, the rate of rise of floodwaters, and the expected level of sediment and debris transport during a flood event.
- e) The necessity of the facility to a location that is susceptible to flooding.
- f) The relationship of the proposed use to the comprehensive plan and zoning designation for the project area.

#### Section 16-84. Permit Expiration.

Floodplain Development permits are valid for one-hundred and eighty days. Permits may be extended by the Floodplain Administrator in cases where active work is occurring on a regular basis but the project has not yet been completed.

#### Section 16-85. Permit Revocation.

After a permit has been issued, the Floodplain Administrator may cause a permit to be revoked, or may cause a permit to be suspended pending submission of additional information, or may cause a permit to be modified or restricted, under any of the following circumstances:

- a) It is determined, based on the best available data, that continuation of the permitted development will result in a condition not reasonably safe from flooding or will result in adverse impacts to other properties anywhere in the watershed;
- b) It is determined that the permit was issued based on the submission of inaccurate, misleading, or incomplete information;
- c) It is determined that the permit was issued in error.

#### Section 16-86. Elevation Certificates.

Any development resulting in a new or substantially improved structure or addition requires submission of one or more Elevation Certificates.

Elevation Certificates must be completed on the forms authorized and published by the Federal Emergency Management Agency and must bear the seal of an appropriate design professional. Elevation Certificates must be completed using a datum matching the datum used in the adopted Flood Insurance Study. Base flood elevations noted on submitted Elevation Certificates must be based on the best available data and are subject to review and approval by the floodplain administrator.

For any new or substantially improved structure or addition thereto other than an accessory structure, an Elevation Certificate showing the proposed elevations of the lowest finished floor and highest adjacent grade for the proposed structure must be submitted with the application for a Floodplain Development Permit ("design Elevation Certificate"). Before a new or substantially improved structure or addition may be occupied, an Elevation Certificate based on as-built conditions must be submitted to the Floodplain Administrator ("as-built Elevation Certificate). It is recommended that an additional Elevation Certificate be completed and submitted after finished grade is established and foundation forms have been set in order to verify that the lowest finished floor elevation will conform to that submitted on the design Elevation Certificate (pre-construction Elevation Certificate). For accessory structures, only an as-built Elevation Certificate is required to be completed and submitted.

#### Section 16-87. Letters of map change.

Before community endorsement for an application for letter of map change or conditional letter of map change may be granted, the applicant must submit documentation necessary to demonstrate that the conditions resulting from the development for which the letter of map change is being sought are or will be equivalently protected from flooding as if the property were located within an area of special flood hazard and the provisions of this ordinance were applied.

For letters of map change involving alteration to a watercourse, community endorsement will not be granted unless the application has detailed the full impacts of the proposed change to all properties within the watershed.

#### Section 16-88. Nonconforming uses and structures.

Existing uses of property within an area of special flood hazard that do not comply with the provisions of this ordinance may be continued, regardless of change in occupant, so long as the following conditions are met:

- a) The use was lawful and proper at the time it was originated;
- b) The use does not cease for a period exceeding ninety (90) days;

- c) The primary structure in which the use is conducted is not determined to be substantially damaged or condemned for occupancy;
- d) The use is otherwise compliant with all applicable city ordinances and state laws.

In the event that a nonconforming use fails to meet one of these criteria, its nonconforming status is terminated and it must be discontinued unless or until it can be reinitiated in such a way as to be compliant with this ordinance and all other applicable regulations. In the event a nonconforming use is terminated, the floodplain administrator may order all remnants of that use removed from any area of special flood hazard within thirty (30) days, or sooner if these items pose a threat to life or property.

#### Division 5: Development regulations.

#### Section 16-90. General standards for development within areas of special flood hazard.

The following standards apply to all new development, substantial improvement, or additions to existing structures within an area of special flood hazard:

- 1) All new construction, substantial improvement, or additions to existing structures 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, substantial improvement, or additions to existing structures shall be constructed by methods and practices that minimize flood damage;
- 3) All new construction, substantial improvement, or additions to existing structures shall be constructed with materials resistant to flood damage;
- 4) All new construction, substantial improvement, or addition to existing structures shall have the lowest finished floor elevated to the design flood elevation as specified in this ordinance, as certified by an appropriate design professional consistent with the requirements contained within this ordinance;
- 5) All new construction, substantial improvement, or additions to existing structures shall be constructed with electrical, mechanical, plumbing and other service facilities that are

designed so as to prevent water from entering or accumulating within the components during conditions of flooding and located such that all components are located at or above the design flood elevation as specified in this ordinance;

- 6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- 7) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate both infiltration of floodwaters into the system and discharge of system contents into floodwaters.

Section 16-91. Development in areas for which detailed data does not exist.

In the event that land is proposed to be developed or redeveloped where detailed data, including limits and extents of areas of special flood hazard, base flood elevations, and delineated regulatory floodways with encroached elevations, the applicant proposing the development must provide such data in a form and format acceptable to the Floodplain Administrator. Such data must be created in accordance with the mapping and study standards set forth by the Federal Emergency Management Agency.

Section 16-92. Development within regulatory floodways.

Encroachments of any kind within areas designated as regulatory floodways are prohibited unless:

- a) it has been demonstrated through hydraulic and hydrologic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in water surface elevation, peak discharge or velocity at any place in the watershed due to the occurrence of the base flood discharge; or
- b) The community has applied for and been granted a conditional letter of map change by the Federal Emergency Management Agency.

Section 16-93. Compensatory storage required.

Whenever any portion of the floodplain is authorized for development, any reduction in the storage capacity of the floodplain caused by the

development must be compensated for such that no increase in water surface elevation nor increase in peak discharge or velocity shall occur at any point in the watershed. This compensatory storage should be designed for the one percent chance storm and all lesser storms.

At minimum, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

#### Section 16-94. Enclosures below design flood elevation.

For all new construction, substantial improvement, or additions to new structures within an area of special flood hazard, enclosures below the design flood elevation are prohibited.

#### Section 16-95. Foundation protection.

All new structures or additions thereto located within an area of special flood hazard must be constructed on a foundation that has been approved by a registered professional engineer as being properly designed to resist erosion, scour, settling and related hazards that accompany floods.

When a building is constructed on fill, the fill must be properly designed and compacted and must extend at least fifteen feet beyond the walls of the structure before dropping below the design flood elevation. The design and actual placement and compaction of the fill must be sufficient to resist erosion, scour, settling and related hazards that accompany floods and must be approved by a registered professional engineer.

#### Section 16-96. Private sewage disposal systems.

Installation of new private sewage disposal systems within an area of special flood hazard is prohibited. Minor maintenance and pumping may be performed to existing systems, but major repairs involving excavation or replacement of system components is prohibited. In the event that an existing system is in need of major repair, it must be properly abandoned or removed pursuant to the requirements of state law and the city's adopted codes.

#### Section 16-97. Storm shelters.

Storm shelters or safe rooms may not be installed such that any portion of the shelter is located below the design flood elevation. An Elevation Certificate will be required to document that the bottom of the lowest horizontal surface of the storm shelter is located at or above the design flood elevation.

#### Section 16-98. Accessory structures.

Accessory structures shall be permitted to be located within an area of special flood hazard without having lowest finished floor elevated to or above the design flood elevation under the following limited circumstances:

- a) The structure is used only for parking and storage.
- b) The value of the structure does not exceed one thousand (1000) dollars.
- c) The structure is anchored and located so as not to cause damage to nearby structures in the event of flooding.
- d) The floor area of the structure does not exceed one hundred fifty (150) square feet.
- e) The interior of the structure is unfinished and has no utility services other than an electrical connection used for lighting and up to two ground-fault type receptacles, provided that all electrical wiring and fixtures are located above the design flood elevation.
- f) The structure is constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters. If the lowest finished floor of the structure is located below the elevation of the base flood, openings to relieve hydrostatic pressure must be provided.
- g) The materials used for construction are flood resistant.
- h) All requirements relating to floodway encroachments and compensatory storage are met.

#### Section 16-99. Manufactured homes.

Manufactured homes are not permitted to be placed or substantially improved within an area of special flood hazard, whether within or outside of a manufactured home park, unless all requirements of this ordinance are met, including compensatory storage being provided, the structure being anchored to prevent flotation and lateral movement, and the structure being placed with the bottom of the lowest horizontal

structural member and all utility components elevated to or above the design flood elevation.

Section 16-100. Recreational vehicles.

Recreational vehicles may not be parked and occupied within an area of special flood hazard. No utility connections to recreational vehicles may occur within an area of special flood hazard.

Section 16-101. Parking.

Parking is permitted within an area of special flood hazard only if the parking is transient in nature and incidental to a non-residential use on the same property, provided that the area in which parking occurs may not represent more than fifty (50) percent of the total parking area for that non-residential or residential use on that property.

Other parking, including long term parking, storage of vehicles, or parking related to a residential use is not permitted within an area of special flood hazard.

Section 16-102. Open storage.

Open storage is permitted within an area of special flood hazard only when it is necessary due to the location of existing infrastructure that must necessarily be located in low-lying, flood-prone areas, such as waste-water treatment facilities, or that cannot be elevated for functional reasons, such as railroad tracks.

Open storage is not permitted within the boundaries of a regulatory floodway.

When open storage is permitted within an area of special flood hazard, all reasonable steps must be taken to ensure that the materials are reasonably safe from flooding, including requiring that materials be anchored in place where possible. Compensatory storage based on the maximum amount of material permitted to be stored below the elevation of the base flood is required. An emergency evacuation plan must be submitted and must detail reasonable steps to ensure that the stored material will not adversely impact other properties in the event of flooding.

Section 16-103. Critical facilities and hazardous materials.

No new or substantially improved critical facilities may be located within the area commonly known as the five hundred year floodplain (delineated as Zone X (Shaded) on the adopted Flood Insurance Rate Map).

Hazardous materials may not be stored within an area of special flood hazard. No new storage tanks for hazardous materials may be placed within an area of special flood hazard except for replacement tanks for existing nonconforming uses, provided that these existing tanks are elevated to or above the design flood elevation and are anchored to resist flotation and lateral movement.

New facilities for oil and gas extraction are prohibited within an area of special flood hazard.

Section 160-104. Additional standards for subdivisions within areas of special flood hazard.

Any proposed subdivision that is entirely or partially within an area of special flood hazard is subject to the following requirements, which are supplemental to the requirements for subdivisions set forth in the Del City Planning and Zoning Ordinance:

- 1) Pursuant to this ordinance, detailed flood data must be developed for all proposed subdivisions.
- 2) Proposed subdivision plats must graphically depict the limits of areas of special flood hazard and the boundaries of regulatory floodways.
- 3) Areas of special flood hazard appearing on a proposed subdivision plat must be maintained as open space to be maintained by the applicant or by a bona fide property owners association, with the plat applicant being responsible for any failure on the part of the. An easement in favor of the City must be granted.
- 4) All proposed building sites within a proposed subdivision must be accessible by a road that is elevated to or above the elevation of the five hundred (500) year flood.
- 5) All subdivisions must have public utilities constructed in such a way as to minimize or eliminate the possibility of flood damage.

Division 6: Enforcement.

Section 16-120. Notices and orders.



The floodplain administrator may issue notices or orders necessary to ensure compliance with the provisions of this ordinance.

Section 16-121. Violations.

Failure to comply with a provision of this ordinance is a violation. Failure to comply with a notice or order issued pursuant to this ordinance is a separate violation. Each day a violation is allowed to persist is a new violation.

Section 16-122. Penalty.

The penalty for each violation of this ordinance is a fine or deferral fee in lieu not to exceed seven hundred fifty (750) dollars and/or imprisonment for a period not to exceed sixty (60) days, plus applicable costs.

Section 16-123. Abatement of violations and emergency measures.

The City may act to abate a nuisance created by violation of a provision contained within this article. A minimum of ten days written notice shall be given by mail and posting on the property, after which the violation may be abated by city employees or a private contractor. After assessment of the abatement costs by the City Council, the actual costs of the abatement plus a fee representative of administrative costs shall be charged to the owner and, if not paid, shall become a lien against the property having been abated. In the event that the same violation reoccurs within six months, it may be abated with no further notice required. Unpaid abatement costs are grounds for immediate termination of city utility service and termination of any certificates of occupancy for the affected property.

If a violation of this article has the potential to cause imminent harm to any person or property within the watershed, the Floodplain Administrator may cause the violation to be abated immediately and by any means available. As soon as is practicable following the abatement action, notice of the abatement shall be given to the owner of the property. Procedures for assessment of costs and reabatement shall be as specified in this article.

Section 16-124. Designation of body to hear appeals and variances.

The Del City Board of Adjustment is hereby designated as the body authorized to hear appeals and variances. The Board shall have the power to hear testimony necessary to make a decision. The Board shall have the power to subpoena witnesses and evidence. Failure of the applicant for appeal or variance to provide evidence, including detailed technical data, or testimony requested by the Board may be grounds for denial of the appeal or variance.

Section 16-125. Notice of appeal and form of application for appeals and variances.

Applications for appeals and variances must be made on forms created by the floodplain administrator. Applications must contain all information required by the floodplain administrator.

Section 16-126. Application fee.

The filing fee for an appeal or variance is one-hundred dollars.

Section 16-127. Appeals.

Any person aggrieved by a decision or interpretation made by the floodplain administrator may appeal that decision to the body designated in this ordinance.

Written notice of appeal must be filed with the floodplain administrator no later than five (5) days following the first day on which the aggrieved person is made aware that of the decision or interpretation being appealed has been made. Before a hearing can be held on an appeal, written notice must be made to all property owners adjacent to the property for which the appeal is being sought and to the state coordinating agency. This notice should be made by mail no later than ten (10) days before the hearing date.

Appeals will be granted only in the case of a clear error in decision or interpretation by the floodplain administrator and may not serve to suspend enforcement of any provision of this ordinance.

Notice of final action on any appeal application must be sent to the applicant and the state coordinating agency no later than fifteen (15) days following the date of the action.

Section 16-128. Variances.

Any person seeking a variance from one or more provisions of this ordinance may file an application for variance with the body designated by the ordinance to hear variances.

In no case shall a variance be granted that would allow development that is not reasonably safe from flooding.

Variances shall only be issued upon demonstration that the following criteria have been met:

- a) Submission by the applicant of a technical showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate;
- b) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;
- c) A determination that the granting of the a variance will not result in increased flood heights, additional threat to public safety or extraordinary public expense;
- d) A determination that the variance is the minimum necessary, considering flood hazard, to afford relief.

No variance shall be granted to permit development within a regulatory floodway that would result in an increase in the elevation of the base flood at any point in the watershed.

If a variance is granted to permit construction of a structure with its lowest finished floor below the design flood elevation, the applicant must be provided with written notice stating that construction below the design flood elevation increases risks to life and property. If a variance is granted to permit construction of a structure with its lowest finished floor below the elevation of the base flood, the applicant must be provided with written notice stating that the cost of flood insurance obtained through the National Flood Insurance Program will be commensurate with the increased risk resulting from the reduced finished floor elevation.

If a variance is granted, no permit for development shall be issued until the owner of the property in question has provided the following:

- 1) Evidence that an instrument has been filed with the County Clerk stating that a variance has been issued for this property and the property is at higher risk for damage from flooding;

- 2) Evidence that an instrument has been executed to indemnify the City against any and all claims relating to damages arising to or from the development for which the variance was granted.

A variance is authorized to be granted, without regard to the specific requirements set forth in this section, for the repair, improvement or rehabilitation of a historic structure, as defined in this ordinance, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure. If the proposed work precludes the structure's continued designation as a historic structure, a variance shall not be granted and the structure shall be subject to the requirements of this ordinance and the building codes.

A variance is authorized to be granted, without regard to the specific requirements set forth in this section, for the development necessary to conduct a functionally dependent use, provided that the variance is the minimum necessary and that all due consideration has been given to methods and materials that minimize flood damages during the base flood.

Notice of final action on any variance application must be sent to the applicant and the state coordinating agency no later than fifteen (15) days following the date of the action.

Section 3: Sections 16-130 through 16-135 (Article V of Chapter 16, Planning and Development) of the Del City Code of Ordinances are hereby repealed and replaced as follows, and Sections 16-130 through Sections 16-143 are hereby added as follows, with the Article title being changed as follows:

Article V. Stormwater quality.

Section 16-130. Title.

The provisions of this article may be referenced as the Stormwater Quality Ordinance of the City of Del City.

Section 16-131. Purpose and scope.

The purpose of these provisions is to ensure the quality of runoff and other stormwater at all points within the City.

The provisions of this article are intended to ensure compliance with the requirements of the City's Municipal Separate Storm Sewer (MS4) permit, issued by the Oklahoma Department of Environmental Quality under the auspices of the National Pollutant Discharge Elimination System (NPDES) Phase II program. The provisions of that permit are hereby incorporated into this article by reference. A copy of those provisions can be obtained from the City Clerk.

Section 16-132. Grading permit established.

A grading permit is hereby established. A grading permit is required for all earth changes, subject to the following exemptions:

- a) Agricultural activities being conducted in accordance with all applicable regulations;
- b) Routine maintenance and landscaping which does not cause a discharge of stormwater off of the property on which it is being conducted;
- c) Excavating, grading, leveling or paving on a single-family lot not exceeding one acre in size;
- d) Development occurring under the auspices of a valid floodplain development permit;
- e) Emergency repairs, provided that a permit is obtained at the next practical opportunity.

Section 16-133. Grading permit fee.

The fee for a issuance of a grading permit shall be twenty dollars.

Section 16-134. Standards for grading permit issuance.

Application for a grading permit shall be made on forms provided and must include the following information:

- a) Description of the proposed earth change;
- b) Description of the best management practices that will be used to control construction site and post-construction runoff;
- c) A scale drawing showing all relevant information.

A stormwater pollution prevention plan and silt fence diagram are required for all projects disturbing more than one acre. A copy of the required Notice of Intent for Construction Site Activity submitted to the

Department of Environmental Quality is required for all projects disturbing more than five acres. Supplemental documentation may be required by the Building Official for any permit application.

Section 16-135. Illicit discharge detection and elimination.

Discharge of pollutants into storm drains, drainage improvements, watercourses, or onto any land subject to drainage into a body of water is prohibited. A presumption of responsibility on the part of the legal property owner and property occupant exists when evidence of such a discharge is found on a property.

Section 16-136. Construction site runoff control.

Construction site is not permitted to be impaired by pollutants, including sediment. Best management practices must be implemented and inspected. An inspection log must be kept on all construction sites. When required to be submitted, a copy of an approved stormwater pollution prevention plan must be maintained on all construction sites.

Section 16-137. Post-construction runoff control.

Best management practices must be implemented to ensure that detrimental runoff does not occur following completion of a construction project.

Section 16-138. Pollution prevention.

All necessary "good housekeeping" steps must be taken to ensure that pollution is prevented.

Section 16-139. Violations.

Violation of a provision contained within this article is hereby declared to be a public nuisance and a violation of city code.

Each day a violation persists is considered a new violation.

Section 16-140. Penalty.

Non-compliance with the provisions contained within this article, whether through action or failure to act, is a violation of city code punishable by a

fine not to exceed seven-hundred fifty dollars and/or imprisonment for not longer than sixty days, plus costs.

#### Section 16-141. Abatement of violations.

The City may act to abate a nuisance created by violation of a provision contained within this article. A minimum of ten days written notice shall be given by mail and posting on the property, after which the violation may be abated by city employees or a private contractor. After assessment of the abatement costs by the City Council, the actual costs of the abatement plus a fee representative of administrative costs shall be charged to the owner and, if not paid, shall become a lien against the property having been abated. In the event that the same violation reoccurs within six months, it may be abated with no further notice required. Unpaid abatement costs are grounds for immediate termination of city utility service and termination of any certificates of occupancy for the affected property.

If a violation of this article has the potential to cause imminent harm to any person or property within the watershed, the Building Official may cause the violation to be abated immediately and by any means available. As soon as is practicable following the abatement action, notice of the abatement shall be given to the owner of the property. Procedures for assessment of costs and reabatement shall be as specified in this article.

#### Section 16-142. Appeals.

Any party aggrieved by a provision contained within this article may make appeal to the Board of Adjustment. Procedures and fees for appeal will be the same as for a building code appeal as stated in Chapter 5 of this code.

#### Section 16-143. Enforcement.

The Building Official is charged with enforcement of the provisions of this article, however, authority is further delegated to Public Works Director and Fire Chief or their designees to address and resolve violations of the provisions of this article as they are encountered.

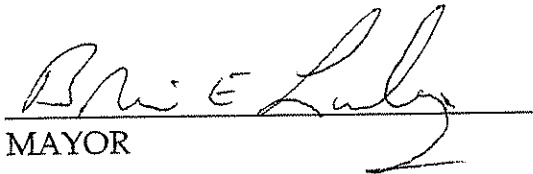
Section 2: REPEALER. All former Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3: SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional but any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

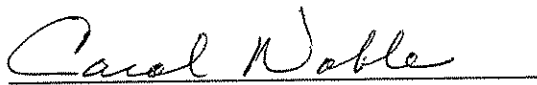
Section 4: EMERGENCY. It being immediately necessary for the preservation of public health, peace and safety of the City of Del City and the inhabitants thereof, and emergency is hereby declared to exist by reason whereof, this Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

PASSED AND APPROVED and the emergency clause voted upon separately and passed

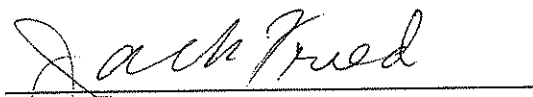
and approved, this 16<sup>th</sup> day of NOVEMBER, 2009.

  
MAYOR

ATTEST:

  
City Clerk

Approved as to form this 16 of November, 2009.

  
City Attorney



# THE JOURNAL RECORD

P.O. Box 26370  
Oklahoma City, Oklahoma 73126-0370  
Telephone 278-2801

## PUBLISHER'S AFFIDAVIT

NOTICE  
11/20/2009  
ORDINANCE NO 1333

NUMBER  
PUBLICATION DATES

LEGAL NOTICE

STATE OF OKLAHOMA }  
COUNTY OF OKLAHOMA } SS

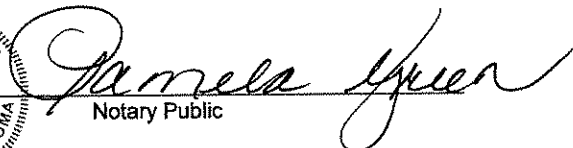
I, of lawful age, being duly sworn, am a legal representative of The Journal Record of Oklahoma City, Oklahoma, a daily newspaper of general circulation in Oklahoma County, Oklahoma, printed in the English Language and published in the City of Oklahoma City, in Oklahoma County, State of Oklahoma, continuously and uninterruptedly published in the County for a period of more than 104 consecutive weeks prior to the first publication of the attached notice, and having a paid general subscription circulation therein and with admission to the United States mails as paid second-class mail matter.

That said notice a true copy of which is attached hereto, was published in the regular edition of said newspaper during the period and time of publication and not in a supplement on the ABOVE LISTED DATE(S).

  
\_\_\_\_\_  
(Representative Signature)

Subscribed and sworn to before me this 20 th day of November 2009



  
\_\_\_\_\_  
Notary Public  
Commission Number: 07006934  
My Commission expires: 07/30/2011

(MS170012R)  
ORDINANCE NO. 1333  
AN ORDINANCE OF THE CITY OF DEL CITY, OKLAHOMA AMENDING CHAPTER 16 (PLANNING AND DEVELOPMENT), ARTICLE III (DRAINAGE), ARTICLE IV (FLOOD DAMAGE PREVENTION) AND ARTICLE V (SURFACE WATER CONTROL) OF THE DEL CITY CODE OF ORDINANCES; ENACTING REQUIREMENTS FOR DRAINAGE PLANS AND IMPROVEMENTS; SETTING A PENALTY FOR DRAINAGE VIOLATIONS; PROVIDING FOR ABATEMENT OF VIOLATIONS RELATING TO DRAINAGE; ESTABLISHING A DRAINAGE FEE AND METHOD OF COLLECTION; ENDORSING A NO ADVERSE IMPACT APPROACH TO FLOODPLAIN MANAGEMENT; ADOPTING A FLOOD INSURANCE STUDY AND RELATED MAPS; PROVIDING FOR ADMINISTRATION OF A FLOODPLAIN MANAGEMENT PROGRAM; ENACTING REQUIREMENTS FOR DEVELOPMENT WITHIN AREAS OF SPECIAL FLOOD HAZARD AND REGULATING DEVELOPMENT

WITHIN AND OUTSIDE OF FLOODPLAINS; ESTABLISHING A FLOODPLAIN DEVELOPMENT PERMIT AND PERMIT FEE; SETTING A PENALTY FOR FLOODPLAIN MANAGEMENT VIOLATIONS; PROVIDING FOR ABATEMENT OF VIOLATIONS RELATING TO FLOODPLAIN MANAGEMENT; RENAMING ARTICLE V; ENACTING REQUIREMENTS FOR PRESERVATION OF STORMWATER QUALITY; ESTABLISHING A GRADING PERMIT AND PERMIT FEE; SETTING A PENALTY FOR VIOLATIONS RELATING TO STORMWATER QUALITY; PROVIDING FOR ABATEMENT OF VIOLATIONS RELATING TO STORMWATER QUALITY; DECLARING A REPEALER; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY.  
PASSED AND APPROVED and the Emergency Clause voted upon separately and Passed and Approved this 16th day of November, 2009.

Brian E. Linley, Mayor  
(Seal)  
ATTEST:  
Carol Noble,  
City Clerk

(11-20-09)

Order Number  
00170012

Publisher's Fee  
\$ 60.46

# THE JOURNAL RECORD

P.O. Box 26370  
Oklahoma City, Oklahoma 73126-0370  
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Notary Public

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ATTEST: Carol Noble, City Clerk

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