

## **Ordinance No. 930**

**An Ordinance amending Title 13, Chapters 1-2 & 3. Flood Damage Prevention Ordinance that adopts the new Custer County Flood Maps dated January 6, 2011; which requires floodplain permits for any new development in the floodplain, sets a penalty and establishes fees and establishes an emergency. This ordinance is required for residents of Clinton to be able to purchase flood insurance in or out of the floodplain.**

### **CITY OF CLINTON, OKLAHOMA FLOOD DAMAGE PREVENTION ORDINANCE “DECLARING AN EMERGENCY”**

#### **ARTICLE I**

#### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

##### **SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Oklahoma has in 11 O.S. §§ 41-47, as amended, delegated the responsibility to local governmental units to adopt ordinances designed to minimize flood losses. Therefore, the City of Clinton, Oklahoma, ordains the following, to become effective immediately:

##### **SECTION B. FINDINGS OF FACT**

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

##### **SECTION C. STATEMENT OF PURPOSE**

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

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

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

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## ARTICLE II

### DEFINITIONS

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

"Accessory structure" - means a structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Examples of accessory structures include but are not limited to garages and storage sheds.

"Area of special flood hazard" - is the land in the floodplain within the City of Clinton subject to a one percent or greater chance of flooding in any given year.

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

"Base flood elevation" - means the elevation in feet above mean sea level of the base flood or 1% chance flood.

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

"BFE" - means base flood elevation.

"CFR" - means Code of Federal Regulations.

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

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

"Development Permit" - means a permit issued by the City of Clinton Floodplain Administrator which authorizes development in a special flood hazard area in accordance with this ordinance.

"Elevated building" - means a non-basement building built, in the case of a building in Zones AE, A, and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones AE, A, and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

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

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

"Expansion to an existing manufactured home park or subdivision"- means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FEMA" means the Federal Emergency Management Agency.

"FIRM" means Flood Insurance Rate Map.

"Flood" or "flooding" - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

"Flood insurance study" - is the official report provided by FEMA for City of Clinton which contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.

"Floodplain Administrator" – means a person accredited by the OWRB and designated by the City Council of the City of Clinton to administer and implement laws, ordinances and regulations relating to the management of floodplains.

"Floodplain or flood-prone area" - means any land area susceptible to being inundated by water from any source (see definition of flood).

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

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

"Flood protection system" - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within City of Clinton subject to a "special

flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodway" - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. A floodway is located within areas of special flood hazard established in Article III, Section B. A floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles.

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

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

"Historic structure" - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a) By an approved state program as determined by the Secretary of the Interior, or
  - b) Directly by the Secretary of the Interior in states without approved programs.

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

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

"Lowest floor" - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor;

provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of Title 44 CFR.

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

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

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

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

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

"OWRB" – means the Oklahoma Water Resources Board.

"Recreational vehicle" - means a vehicle which is:

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

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

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

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

"Water surface elevation" - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## ARTICLE III

### GENERAL PROVISIONS

#### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

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

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

The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled, "The Flood Insurance Study for Custer County, Oklahoma and Incorporated Areas" dated January 6, 2011, with the accompanying Flood Insurance Rate Map (FIRM) are hereby adopted on January 6, 2011, by reference and declared to be a part of this ordinance. However, until this date the current effective flood maps for the City of Clinton dated April 3, 1987, shall be used for this purpose until January 6, 2011.

#### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

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

#### **SECTION D. COMPLIANCE**

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

#### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

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

## **SECTION F. INTERPRETATION**

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

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

## **SECTION G. WARNING AND DISCLAIMER OR LIABILITY**

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

## ARTICLE IV

### ADMINISTRATION

#### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The City Manager or his designee is hereby appointed to administer and implement the provisions of this ordinance and other appropriate sections of National Flood Insurance Program regulations in Title 44 CFR pertaining to floodplain management.

#### **SECTION B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

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

1. Become accredited by the OWRB in accordance with Title 82 O.S. §§ 1601-1618, as amended.
2. Reviews permit applications to determine whether the proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for Development Permits required by this ordinance.
4. Review proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval are required.
5. Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
6. Notify, in riverine situations, adjacent communities and the OWRB prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. Shall require the developer/applicant to determine and provide the base flood elevation on two (2) FEMA Elevation Certificates, one for pre construction and one for post construction, as well as other data as required, in order to administer the provisions of Article V.
9. When a floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE as delineated on the Custer County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Clinton.

10. After a disaster or other type of damage occurrence to structures in the City of Clinton, determine if the residential and non-residential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.
11. Maintain a record of all actions involving an appeal from a decision of the City Council.
12. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

### **SECTION C. PERMIT PROCEDURES**

1. An Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - a. Elevation in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures; and
  - b. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
  - a. The danger to life and property due to flooding or erosion damage;
  - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - c. The danger that materials may be swept onto other lands to the injury of others;
  - d. The compatibility of the proposed use with existing and anticipated development;
  - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - h. The necessity to the facility of a waterfront location, where applicable;

- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
  - j. The relationship of the proposed use to the comprehensive plan for that area.
3. The Floodplain Administrator or City Council, as applicable, may approve certain development in Zones A or AE delineated on the Custer County FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the applicant for the Development Permit in that case first complies with 44 CFR Section 65.12.

**SECTION D. VARIANCES**

1. General provisions.

a. The City Council of the City of Clinton may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or this ordinance, if the applicant for the variance presents adequate proof that (i) compliance with this ordinance will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent provisions of this Section D. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards.

b. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.

c. In no case shall variances be effective for a period longer than twenty (20) years.

d. Any person seeking a variance shall file a petition with the City Council, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

e. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) and provisions of Section D of this Article IV have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

f. Any person seeking a variance to build a structure below the base flood elevation will be issued a notice signed by the Chairman of the City Council which states that (i) the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation, and (ii) such construction below the base flood level increases risks to life and property.

g. At such time as the City Council deems the petition ready for notification to the public, the City Council shall schedule a hearing and direct the applicant to publish notice thereof in a newspaper of general circulation in Custer County at least thirty (30) days prior to the hearing.

h. The City Council shall conduct the hearing and make determinations in accordance with the applicable provisions of this Section D. The City Council shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted.

i. Variances shall only be issued upon:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances; and
- (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

j. Upon consideration of the factors stated in this Section D and the intent of this ordinance, the City Council may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in Article I, Section C of this ordinance.

k. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance; and a copy of any variance issued by the Floodplain Board shall be sent by the Floodplain Administrator to the OWRB and FEMA within fifteen (15) days after issuance of the variance.

## 2. Special provisions.

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

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

c. 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.

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

- (1) The criteria of Section D(1)(e); Section D(1)(i); Section D(2)(b); and Section D(2)(c) of this Article IV are met, and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## ARTICLE V

### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### **SECTION A. GENERAL STANDARDS**

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

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

#### **SECTION B. SPECIFIC STANDARDS**

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

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at least two (2) feet above the base flood elevation. A

registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.

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

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

4. **Manufactured Homes** -

Require that all manufactured homes to be placed anywhere within the community in Flood Zones A and/or AE on the Weatherford FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I-beam elevated at least at or above the base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to a permanent foundation to resist flotation, collapse, or lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A and AE on the Custer County FIRM either:

- (a) Be on the site for fewer than 180 consecutive days,
- (b) Be fully licensed and ready for highway use, or
- (c) Meet the permit requirements of Article IV, Section C, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

6. **Accessory Structure** – Accessory structures to be placed on sites within Zones A and AE on the Custer County FIRM shall comply with the following:

- (a) The structure shall be unfinished on the interior;

- (b) The structure shall be used only for parking and limited storage;
- (c) The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;
- (d) Service facilities such as electrical and heating equipment must be elevated to or above the BFE;
- (e) The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (f) The structure shall be designed to have low flood damage potential and constructed with flood resistance materials;
- (g) The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;
- (h) Floodway requirements must be met in the construction of the structure;
- (i) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and
- (j) The structure shall be located so as not to cause damage to adjacent and nearby structures.

### **SECTION C. STANDARDS FOR SUBDIVISIONS**

1. The applicant for a Development Permit for any subdivision located in Zones A and AE which is 51 or more lots or greater than 5 acres shall generate the base flood elevation data for that subdivision.
2. All subdivisions including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
3. All subdivisions 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 D. FLOODWAYS**

The following provisions shall apply to floodways:

1. Encroachments, including but not limited to fill, new construction, substantial improvements and other development are prohibited within the adopted floodway unless

it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the City of Clinton during the occurrence of the base flood discharge.

2. If Article V, Section D.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.
3. The City of Clinton may permit encroachments within the adopted floodway that would result in an increase in base flood elevations, provided that the applicant for the Development Permit complies with all of 44 CFR Section 65.12.

## **ARTICLE VI**

### **CITY OF CLINTON FLOODPLAIN MANAGEMENT FEE SCHEDULE**

The City of Clinton City Council establishes the following fee schedule not to exceed \$500.00 for any one service:

- a. Notice of Intent Fee- \$25.00 maximum
- b. Floodplain Development Permit Application Review-\$100.00
- c. Floodplain Development Permit Fee-\$ 25.00
- d. Inspection Fee-per inspection-\$25.00.

## **ARTICLE VII**

### **PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. A structure or other development without the elevation certificate or other certifications required in this ordinance is presumed to be in violation until such time as that documentation is provided. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than [REDACTED] for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council of the City of Clinton or its City Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

## **CERTIFICATION**

It is hereby found and declared by the City Council of the City of Clinton that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply

with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

**SEVERABILITY**

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

**EMERGENCY CLAUSE**

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval. The Flood Insurance Study and Flood Insurance Rate Map for Custer County and Incorporated Areas dated January 6, 2011, shall apply to this ordinance and shall supersede any previous floodplain management ordinance applicable to the City of Clinton.

**WHEREFORE**, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately from and after its passage, approval and publication.

**PASSED AND APPROVED** and the Emergency Clause voted upon separately and passed and approved this \_\_\_\_\_ day of month, 2010.

**ADOPTED BY THE CITY COUNCIL OF THE City of Clinton THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

CITY COUNCIL OF City of Clinton

\_\_\_\_\_  
Chairman

I, \_\_\_\_\_, the undersigned City Clerk of the City of Clinton, hereby certify that the above is a true and correct copy of a flood damage prevention ordinance duly adopted by the City Council of the City of Clinton at a regular meeting of said City Council duly convened and held on \_\_\_\_\_, 2010. I further certify that the Oklahoma Open Meeting Act was complied with in all respects for such meeting.

\_\_\_\_\_  
City Clerk, City of Clinton (SEAL)