

# **CHAPTER 14**

## **FLOOD DISTRICT**

- 1400. Findings of Fact**
- 1401. Statement of Purpose**
- 1402. General Provisions**
- 1403. Administration**
- 1404. Floodplain Development Permit Procedures**
- 1405. Variance and Appeal Procedures**
- 1406. General Standards**
- 1407. Specific Standards**
- 1408. Standards for Subdivision Proposals**
- 1409. Standards for Areas of Shallow Flooding (AO/AH Zones)**
- 1410. Floodways**
- 1411. Definitions**

### **SECTION 1400. FINDINGS OF FACT**

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

### **SECTION 1401. STATEMENT OF PURPOSE**

- A. 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 the following provisions designed:
  - 1. To protect human life and health;
  - 2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To 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. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such manner as to minimize future flood blighted areas; and
7. To insure potential buyers are notified that property is in a flood-prone area.

**B. Methods of Reducing Flood Losses**

In order to accomplish its purpose, this Ordinance uses the following methods:

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

**C. Flood Districts Established by the Zoning Ordinance**

1. There shall be established an F-1 Flood Channel District which includes those areas within the Floodway.
2. There shall also be established an F-2 Floodplain District which shall include all areas within the 100-year Floodplain.

**SECTION 1402. GENERAL PROVISIONS**

**A. Lands to which this Ordinance Applies**

This Ordinance shall apply to all areas of Special Flood Hazard within the jurisdiction of the City of Claremore and Rogers County, Oklahoma.

**B. Basis for Establishing the Areas of Special Flood Hazard**

The areas of Special Flood Hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Rogers County, Oklahoma", and "The Flood Insurance Study for the City of Claremore" dated August 19, 1987, September 18, 1986 and November 2, 1995, with an accompanying Flood Insurance Rate Map (FIRM) and Flood Hazard Boundary Floodway Map and any revision thereto are hereby adopted by reference and declared to be a part of this Ordinance.

**C. Establishment of Floodplain Development Permit Requirements**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Ordinance.

**D. Compliance**

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

**E. Abrogation and Greater Restrictions**

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

**F. Interpretation**

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under Oklahoma State Statutes.

G. Warning and Disclaimer of 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 damage. This Ordinance shall not create liability on the part of the City of Claremore or Rogers County, Oklahoma, or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**SECTION 1403. ADMINISTRATION**

A. Designation of Director of the City of Claremore-Rogers County Metropolitan Area Planning Commission

The Director is hereby appointed to administer and implement the provisions of this Ordinance in all unincorporated areas. The City Engineer or, in the absence of the City Engineer, the Director of the Planning Commission is hereby authorized to administer and implement the provisions of this Chapter in the City of Claremore and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. Duties and Responsibilities of the Administrators

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Ordinance;
2. Review Floodplain Development Permit and other permit applications to determine whether a proposed building site will be reasonably safe from flooding;
3. Review, approve or deny all applications for Development Permits required by Section 1404 of this Ordinance;

4. Review Permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;
5. Where interpretation is needed as to the exact location of the boundaries of the areas of Special Flood Hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrators shall make the necessary interpretations. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1405;
6. Notify adjacent communities and the Oklahoma Water Resources Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration;
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
8. When Base Flood Elevation data has not been provided in accordance with Section 1402, the Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data available from a federal, state or other source, in order to administer the provisions of Section 1404; and
9. Require, until a Regulatory Floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the County's or City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the Base Flood at any point within the City or County which shall be attested to by a Registered Professional Engineer licensed to practice in the State of Oklahoma.

#### **SECTION 1404. FLOODPLAIN DEVELOPMENT PERMIT PROCEDURES**

- A. An application for a Development Permit shall be presented to the Administrator on approved forms and may include, but not be limited to plans in triplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of Special Flood Hazard. Additionally, the following information is required:

1. Elevation in relation to Mean Sea Level of the lowest floor (including basement) of all new and substantially improved structures;
  2. Elevation in relation to Mean Sea Level to which any nonresidential structure shall be floodproofed;
  3. A certificate from a Registered Professional Engineer or Architect licensed to practice in the State of Oklahoma, that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 1404;
  4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
  5. A certificate from a Registered Professional Engineer licensed to practice in the State of Oklahoma stating that the development will not increase the water surface elevation of the Base Flood; and
  6. A record of all such information in accordance with Section 1403 shall be maintained by the Administrator.
- B. Approval or denial of a Floodplain Development Permit by the Administrator shall be based on all of the provisions of this Ordinance and the following factors:
1. The danger to life and property due to flooding or erosion damage;
  2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  3. The danger that materials may be swept onto other lands to the injury of others;
  4. The compatibility of the proposed use with existing and anticipated development;
  5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public facilities and utilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location where applicable;
9. The availability of alternative locations not subject to flooding or erosion damage for the proposed use; and
10. The relationship of the proposed use to the Comprehensive Plan for that area.

### **SECTION 1405. VARIANCE AND APPEAL PROCEDURES**

- A. The City of Claremore Board of Adjustment and the Rogers County Board of Adjustment acting as a Board of Appeals shall hear and render judgement on requests for Variances or Appeals from the requirements of this Ordinance as is applicable to each.
- B. The Appeals Board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
- C. Any person or persons aggrieved by the decision of the Appeals Board may appeal such decision to the courts of competent jurisdiction.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation, providing the relevant factors in Section 1404 have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

- G. Upon consideration of the factors noted above and the intent of this Ordinance, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.
- H. Variances shall not be issued within any designated Floodway if any increase in flood levels during the Base Flood discharge would result.
- I. Prerequisites for Granting Variances:
1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  2. Variances shall only be issued upon:
    - a. Showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations.
  3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- J. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use as defined herein provided that:
1. The criteria outlined in this Section are met; and
  2. The structure or other development is protected by methods that minimize flood damages during the Base Flood and create no additional threats to the public safety.

**SECTION 1406. GENERAL STANDARDS**

In all areas of Special Flood Hazards the following provisions are required for all new construction and substantial improvements shall apply:

- A. 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 effect of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. 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;
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- F. U.S. Environmental Protection Agency (EPA) Waiver Required:
  - 1. Irrespective of any provisions to the contrary herein from and after the effective date of this Ordinance there shall be no new development permitted within the 100-year floodplain (as defined in the latest publication of the National Flood Insurance Programs "Flood Insurance Rate Map" for the City of Claremore, Oklahoma) which would generate wastewater to be transported to the wastewater treatment facilities of the City of Claremore, Oklahoma.
  - 2. An owner/developer of property situated in said floodplain may make a request, in writing, to the City of Claremore, Oklahoma, for a "Waiver of Service Area Restriction" only in cases where said owner/developer can sufficiently show that the natural environment in the 100-year floodplain would be preserved if the waiver was granted. Said written request for a "Waiver of Service Area Restriction" must be submitted to the Floodplain Administrator of the City of Claremore, Oklahoma, who upon review thereof will judge whether

the requested waiver is in conformance with the intent of this Ordinance. If it be found that said waiver would not be in keeping with the intent of this Ordinance, the request for a "Waiver of Service Area Restriction" shall be denied. Should the findings of the Floodplain Administrator be that the requested waiver would not violate the intent of this Ordinance, nor have any detrimental effect upon the natural functions and values of the effected floodplain, then such a request would be presented to the City Council of Claremore, Oklahoma, for their consideration and possible approval. Only after City Council approval, the City of Claremore, Oklahoma would then submit the request to the U.S. Environmental Protection Agency's Regional Administrator for review and possible approval. It is specifically the intent of this Ordinance that the Regional Administrator be the final authority in all such requests for a "Waiver of Service Area Restriction."

- G. On-site water disposal systems shall be located to avoid impairment or contamination during flooding.

#### **SECTION 1407. SPECIFIC STANDARDS**

In all areas of Special Flood Hazards where Base Flood Elevation data has been provided as set forth in Sections 1403, 1404 or 1406, the following provisions are required:

- A. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two (2) feet above the Base Flood Elevation. A Registered Professional Engineer or Architect licensed to practice in the State of Oklahoma, or a Registered Land Surveyor licensed to practice in the State of Oklahoma shall submit a certification to the Director that the standards in Section 1404 are satisfied.
- B. Non-Residential Construction. New and substantial improvements of any commercial, industrial, or other non-residential structure shall either have the lowest floor (including basement) elevated to or above the Base Flood Level or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Registered Professional Engineer or Architect licensed to practice in the State of Oklahoma shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design

and methods of construction are in accordance with accepted standards of practice as outlined in this Section. A record of such certification which includes the specific elevation (in relation to Mean Sea Level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

- C. Enclosures. New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a Registered Professional Engineer or Architect licensed to practice in the State of Oklahoma to meet or exceed the following minimum criteria:
1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
  2. The bottom of all openings shall be no higher than one (1) foot above grade; and
  3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Manufactured Homes
1. Require that all manufactured homes to be placed within Zone A shall be installed using methods and practices that minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
  2. All manufactured homes shall be in compliance with Sections 1406 and 1407;
  3. Require that all manufactured homes to be placed or substantially improved within Zones AI-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is above the Base Flood Elevation, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Sections 1406 and 1407.

**SECTION 1408. STANDARDS FOR SUBDIVISION PROPOSALS**

- A. All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with Section 1404 and this Ordinance.
- B. All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the Floodplain Development Permit requirements of Section 1404 and otherwise be in compliance with this Chapter and the Zoning Ordinance.
- C. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which are greater than 50 lots or 5 acres if not otherwise provided herein.
- D. All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals, including 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 1409. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)**

- A. Located within the areas of Special Flood Hazard are areas designated as areas of shallow flooding. These areas have special flood hazards associated with Base Flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, the path of flooding is unpredictable and where the velocity flow may be evident.
- B. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
  - 1. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City or County FIRM (at least two [2] feet if no depth number is specified).

2. All new construction and substantial improvements of nonresidential structures:
  - a. Shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City or County FIRM (at least two [2] feet if no depth number is specified); or
  - b. Shall together with attendant utility and sanitary facilities be designed so that below the Base Flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. A Registered Professional Engineer or Architect licensed to practice in the State of Oklahoma shall submit a certification to the Floodplain Administrator that the standards of this Section and Section 1404 and these Regulations are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

#### SECTION 1410. FLOODWAYS

- A. Floodways. Located within areas of Special Flood Hazard established in Section 1402 are areas designated as Floodways.
- B. The Floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential; therefore, the following provisions shall apply:
  1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a Registered Professional Engineer or Architect licensed to practice in the State of Oklahoma is provided demonstrating that encroachment shall not result in any increase in flood levels within the community during the occurrence of the Base Flood discharge; and
  2. If Section 1406 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Ordinance.

**SECTION 1411. DEFINITIONS**

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

**APPEAL:** A request for a review of Floodplain Administrator's interpretation of any provision of this Ordinance or a request for a variance.

**AREA OF SHALLOW FLOODING:** A designated AI, AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by pending or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, AI-99, VO, VI-30, VE or V.

**BASE FLOOD:** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**CRITICAL FEATURE:** 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:** 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.

**ELEVATED BUILDING:** A nonbasement building:

- A. Built, in the case of a building in Zones AI-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones VI-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and

- B. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the Base Flood. In the case of Zones AI-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones VI-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3 (3)(5) of the National Flood Insurance Program regulations.

**EXISTING CONSTRUCTION:** For the purposes of determining rates, structures for which the "Start of Construction", as defined herein, commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures".

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

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

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of Special Flood Hazards and the risk premium zones applicable to the City or County.

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

**FLOODPLAIN OR FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source (see definition of "Flood" or "Flooding").

**FLOOD PROTECTION SYSTEM:** Those physical structural works for which funds have been authorized, appropriated, and expended 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.

**FLOODWAY (REGULATORY FLOODWAY):** The channel of a river or other water-course and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than a designated height.

**FUNCTIONALLY DEPENDENT USE:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and 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.

**HABITABLE FLOOR:** Any floor usable for working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor."

**HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

**LEEVE SYSTEM:** 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:** 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 application non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOMES:** A structure transportable in one (1) or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION:** For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City or County.

**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, 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 a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include 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.

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

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

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

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

- A. Any alteration for improvement of a structure to comply with existing state, or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

- B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**VARIANCE:** A grant of relief to a person from the requirements of this Ordinance when specific enforcement would result in unnecessary hardship. A Variance, therefore, permits construction or development in a manner otherwise prohibited by this Ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations and Section 1405 of this Ordinance.)

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

**WATER SURFACE ELEVATION:** The height, in relation to the National Geodetic Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.