



Mayor Rudy Schultz has called a Special Meeting of the City Council for Wednesday, September 11, 2019 at 4:00PM at the Miami Civic Center, 129 5<sup>th</sup> Ave. Northwest, Miami, Oklahoma.

Melissa Moore  
Melissa Moore, City Clerk

9:20 (AM/PM), September 09, 2019

NOTICE OF SPECIAL MEETING  
OF THE MIAMI CITY COUNCIL

WEDNESDAY, SEPTEMBER 11, 2019  
4:00PM

MIAMI CIVIC CENTER  
129 5<sup>TH</sup> AVE NORTHWEST, Miami, Oklahoma



NOTICE OF SPECIAL MEETING AND AGENDA  
OF THE MIAMI CITY COUNCIL  
WEDNESDAY, SEPTEMBER 11, 2019  
4:00 PM

MIAMI CIVIC CENTER  
129 5<sup>th</sup> Avenue Northwest, Miami, Oklahoma

Filed in the Office of the City Clerk and posted in the main lobby and the north outside entryway of the Miami Civic Center at 2:55 AM/PM on September 10, 2019.

Melissa Moore

Melissa Moore, City Clerk

**THE COUNCIL MAY DISCUSS, CONSIDER, AND VOTE ON ANY ITEM LISTED IN THIS AGENDA:**

- |   |                                   |
|---|-----------------------------------|
| 1. Call to Order  | Mayor Schultz                     |
| 2. Budget Adjustment to Repair the Library Elevator Instead of Replacing the Coleman Theatre HVAC Controls  | Dean Kruithof                     |
| 3. Budget Adjustment to Create Outdoor Pickleball Courts and Purchase Nets and Using Less Funds for a Reclamation Site                              | Mayor Schultz/<br>Jill Fitzgibbon |
| 4. Ordinance 2019-13 Amending Chapter 10 (Flood Damage Prevention); Providing Severability, and Establishing an Effective Date                      | Ben Loring/<br>Kristi McClain     |
| 5. Emergency Clause for Ordinance 2019-13 Amending Chapter 10 (Flood Damage Prevention); Providing Severability, and Establishing an Effective Date | Ben Loring/<br>Kristi McClain     |
| 6. Adjournment  | City Council                      |

*The Mayor and City Council of the City of Miami are committed to making this meeting accessible to all citizens and if special assistance or accommodations are required, please submit your request to the city manager's office. We also ask that those in attendance turn off or place on silent all cell phones or pagers.*

**CITY OF MIAMI  
ACTION/DECISION REQUEST**

**COUNCIL MEETING  
DATE:** 9/11/19

**AGENDA TITLE:** **Budget Adjustment to Repair the Library Elevator Instead of  
Replacing the Coleman Theatre HVAC Controls**

**BACKGROUND:**

The 2019-20 budget contained a capital expense of \$50,000 to install HVAC controls at the Coleman Theatre. While the HVAC system at the theatre is now fully operational and up to date, the controls would have allowed more efficient automated operations of the system. Much like installing a smart thermostat in a home.

After adoption of the budget, the Library elevator failed with a repair cost of roughly \$50,000. While the HVAC controls will be nice to have eventually, they can wait one year because the elevator is critical to the operation of the Library.

This is being provided for your information and we hope we can answer any questions you may have.

**STAFFS RECOMMENDATION:**

NA

**PRESENTER(S):**

Dean Kruithof

**CITY OF MIAMI  
ACTION/DECISION REQUEST**

**COUNCIL MEETING DATE:** 9/11/19

**AGENDA TITLE:** **Budget Adjustment to Create Outdoor Pickleball Courts and Purchase Nets and Using Less Funds for a Reclamation Site**

**BACKGROUND:**

The 2019-20 budget contained a capital expense of \$125,000 to close a reclamation site. At this point, the timing of the closing of the reclamation site is unknown and there may be additional dirt we can use from another site which would also reduce the cost.

With those two reasons, we are planning to use \$10k of the \$125k budgeted to close a reclamation site to create 6 pickleball courts and purchase 4 outdoor quality nets. After a lengthy discussion among staff, it is recommended that due to the unknown timing of closing the reclamation site, creating outdoor pickleball courts would be more advantageous. The courts would be located on the current city tennis courts. Two of the tennis courts would be striped for 6 pickleball courts, in a different color paint. This has been discussed with the high school and they said it would not interfere with their tennis practices. In January of this year, there were 4 people playing pickleball. Today, there are currently 34 different people playing 3 days per week, with average attendance of 15 and as high as 24. The group expects to continue to grow and will work with Chuck and the CVB to bring in some tournaments. Also, league basketball takes over the gym for four months from mid-October to mid-February which will severely limit gym access for the group.

This is being provided for your information and we hope we can answer any questions you may have.

**STAFFS RECOMMENDATION:**

NA

**PRESENTER(S):**

Rudy Schultz and Jill Fitzgibbon

**CITY OF MIAMI  
ACTION/DECISION REQUEST**

**COUNCIL  
MEETING DATE:** September 11, 2019

**AGENDA TITLE:** Ordinance 2019- 13 Amending Chapter 10 (Flood Damage Prevention); Providing Severability; and Establishing an Effective Date

**BACKGROUND:**

- The City's Flood Damage Prevention Ordinance has been reviewed in totality, updating various provisions, adding new provisions, and removing some provisions.

**STAFFS RECOMMENDATION:**

**Approve Ordinance 2019-13 Amending Chapter 10 (Flood Damage Prevention); Providing Severability; and Establishing an Effective Date**

**PRESENTER(S):**

Ben Loring/Kristi McClain

**ORDINANCE NO. 2019-13**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA AMENDING CHAPTER 10 (FLOOD DAMAGE PREVENTION) IN ITS ENTIRETY OF THE CODE OF ORDINANCES; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Article 2, Section 6, subparagraph 2 of the City Charter provides that the council may enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law; and

**WHEREAS**, the Legislature of the State of Oklahoma has in 82 O.S. §§ 1601-1618, as amended, delegated the responsibility to local governmental units to adopt ordinances designed to minimize flood losses; and

**WHEREAS**, the City Council has determined that there is a significant local need for flood insurance within the boundaries of the City of Miami and it is the explicit desire of the Council to participate in the National Flood Insurance Program (NFIP)

**WHEREAS**, 44 Code of Federal Regulations §59.22 and §60.3 require the City of Miami to evidence compliance with NFIP Floodplain Management criteria; and

**WHEREAS**, the Code of Ordinances, enacted in 1964, regulated various aspects of floodplain management within the City of Miami at § 8A-2, and thereafter same was amended by Ordinance No. 1564, effective August 5, 2010; and

**WHEREAS**, an amended Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for the City of Miami, Oklahoma and which will become effective on September 13, 2019.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Miami, Oklahoma:

Section 1- Amendment

Chapter 10 (Flood Damage Prevention) of the Code of Ordinances is amended in its entirety to state as follows:

Chapter 10

**FLOOD DAMAGE PREVENTION**

**Article I. In General**

**Sec. 10-1. Title.**

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

**Sec. 10-2. 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 or 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.

**Sec. 10-3. 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 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 the entire community; and
- (10) Allow for the availability of reasonably priced flood insurance by meeting the minimum requirements for community participation in the NFIP as set forth in the Code of Federal Regulations at 44 CFR 59.22 and 44 CFR 60.3(d).

**Sec. 10-4. Findings of fact.**

The following findings are hereby made:

- (1) Areas exist within the City of Miami 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/or expenditure of public funds for disaster relief and flood protection, all of which adversely affect 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, duration 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, duration and severity of flood damage.

**Sec. 10-5. Methods of reducing flood loss.**

The following methods are employed within this ordinance in order to reduce the frequency, duration 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 flood waters 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.

**Sec. 10-6. Warning and disclaimer of liability.**

The degree of flood protection required by this Ordinance meets or exceeds the minimum standards required for community participation in the NFIP 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 City or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**Sec. 10-7. 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 to neither limit nor repeal any other powers granted under state statutes or the City Charter or other ordinances.

**Sec. 10-8. 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 (Chapter 6). This ordinance is not intended to amend the Miami Planning and Development Ordinances (Chapter 18), Subdivision Ordinances (Chapter 22) or Zoning Ordinances (Chapter 26) or the 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 Oklahoma 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.

**Sec. 10-9. 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 Residential Code, International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, National Electrical Code, International Property Maintenance Code all together with any local modifications, amendments, and adopted appendices and any other code hereinafter adopted by the Oklahoma Uniform Building Code Commission and the City of Miami, together with all such modifications, amendments and other changes as the same shall be provided by current or future orders and ordinances of said Commission and the City. 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.

**Sec. 10-10. 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 structures which are 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, carports, well houses, and storage sheds.

*Alteration of a watercourse* means an alteration of a watercourse including, 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 the City limits subject to a one (1) percent or greater chance of flooding in any given year.

*Base flood* means the flood having a one (1) 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 subgrade (below ground level) on all sides.

*Building inspector* means the individual(s) designated in Chapter 6 of the City of Miami 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, ambulance 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, at least twenty-four (24) inches above the base flood elevation and used for regulatory purposes.

*Development* means any manmade change to improve or unimproved real estate, including but not limited to:

(1) Construction, placement, repair, remodeling, or demolition of buildings, temporary structures, accessory structures, tanks, oil and gas equipment, or any other structures or appurtenances thereto;

(2) Grading, filling, paving, drilling, mining, dredging or excavating; or

(3) 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 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 the effective date of the floodplain management regulations adopted by the City of Miami.

*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.

*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 waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source; and

(3) The unnatural accumulation of surface water in and around rivers, streams and creeks from any source, but including accumulations due to the backwater effect caused by dams, other obstructions or siltation.

*Flood insurance rate map (FIRM)* means the most recent official map of the City of Miami, or the official digital representations thereof, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the City of Miami.

*Flood insurance study* is the official report provided by FEMA for the City of Miami. 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 OWRB and designated by the city manager to administer and implement laws, ordinances 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 this floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police powers. The term describes such state or local ordinances and 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 or duration of associated flooding. Such a system typically includes 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 nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures of all sorts and their contents.

*Floodway (regulated floodway)* means the highly regulated channel of a river or other watercourse and the adjacent land areas that must be preserved 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 Miami if it ever establishes a historic preservation program that is 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 manmade 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 (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. 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 (2) 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 (not including the value of the real estate), as determined by the Ottawa County Assessor, shall be presumed to be the market value unless verifiable, reasonable 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:

(1) 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; or

(2) for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by the City Miami 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 Miami.

*NFIP* means the National Flood Insurance Program under the National Flood Insurance Act.

*OWRB* means the Oklahoma Water Resources Board, or its replacement entity.

*Recreational vehicle* means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (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*, 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 one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on 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 fifty (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 or legal entity 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 noncompliant 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 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.

**Secs. 10-11. - 10-35. Reserved.**

## **Article II. FLOOD HAZARD AREAS**

### **Sec. 10-36. Lands to which this ordinance applies.**

This ordinance shall apply to all areas of special flood hazard (the one (1) percent annual chance floodplain) within the jurisdiction of the City of Miami, 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 percent annual chance (five hundred (500) year) floodplain within the jurisdiction of the City of Miami. Mapping standards contained within this ordinance shall apply to all areas within the jurisdiction of the City of Miami.

### **Sec. 10-37. Basis for establishing areas of special flood hazard, regulated floodways and other flood hazard areas.**

The Flood Insurance Study for Ottawa County, Oklahoma and Incorporated Areas, dated September 13, 2019 and published by FEMA, and its accompanying flood insurance rate maps, are hereby adopted, which includes the base flood elevations, delineations of areas of special flood hazard and regulated floodways, and designation of risk zones as set out in said maps. For the purpose of compliance with the regulations contained within this ordinance, letters of map change revalidated or subsequently approved by FEMA 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 (dated August 5, 2010), unless that development would have been permitted based on the water surface elevations contained in that previous study.

**Secs. 10-38. - 10-60. Reserved.**

### **ARTICLE III. - FLOODPLAIN ADMINISTRATOR**

#### **Sec. 10-61. Designation of floodplain administrator.**

The city manager shall, in writing, appoint 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.

#### **Sec. 10-62. 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.
- (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 regulated 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 (1) 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 regulated 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 or around the City unless the City 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 City endorsement, make a determination that the proposed map change is in the best interest of the City of Miami and will not serve to create adverse impacts on any property in or around 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 OWRB, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

(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 FEMA for the purpose of denial of insurance coverage under Section 1316 of the National Flood Insurance Act.

(17) Coordinate with the city's building inspector to assure that applications for building permits comply with the applicable requirements of this ordinance.

(18) Notify the OWRB and FEMA of any modifications to the corporate limits of the city.

**Sec. 10-63. Accreditation of floodplain administrator.**

As soon as is practicable following the appointment, the floodplain administrator must be accredited by the OWRB in accordance with Title 82 O.S. §§ 1601 *et seq.*, as amended.

**Sec. 10-64. Assistance in times of disaster.**

In times of flooding or other disaster impacting structures within the municipal limits of Miami due to flood hazards, 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 inspectors from other communities, staff from federal and state agencies including FEMA and the OWRB, and members of disaster relief organizations including, but not limited to the Oklahoma Floodplain Managers Association's Disaster Response Team.

**Secs. 10-65. - 10-70. Reserved.**

**ARTICLE IV. FLOODPLAIN DEVELOPMENT PERMITS, ELEVATION  
CERTIFICATES AND LETTERS OF MAP CHANGE**

**Sec. 10-71. 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, fees have been paid and such a permit has been issued.

**Sec. 10-72. Permit and inspection fees.**

No application for a floodplain development permit required by this Chapter shall be accepted and no such permit shall be issued until the following fees and the reasonably anticipated inspection fees as determined necessary by the floodplain administrator have been paid to the City in addition to any fee(s) which may otherwise be required by law for the City to collect:

(1) For a permit for a new residential building or structure the fee based on the estimated improvement is as follows:

- Up to first 1,000 square feet . . . \$150.00
- Each additional 100 square feet . . . \$5.00

(2) For a permit for additions/remodels or the alteration or improvement of an existing residential structure, the fee based on the estimated improvement is as follows:

- Up to first 500 square feet . . . \$55.00
- Each additional 100 square feet . . . \$5.00

(3) For a permit for a new commercial or industrial building or structure the fee based on the estimated improvement is as follows:

- Up to first 1,000 square feet . . . \$200.00
- Each additional 100 square feet . . . \$5.00

(4) For a permit for additions/remodels or the alteration of an existing commercial or industrial building or structure the fee based on the estimated improvement is as follows:

- Up to first 1,000 square feet . . . \$150.00
- Each additional 100 square feet . . . \$5.00

(5) For a permit for a new accessory building for storage only, whether residential, commercial or industrial, the fee based on the estimated improvement is as follows:

- Up to first 200 square feet . . . \$55.00
- Each additional 100 square feet . . . \$5.00

(6) For a permit for miscellaneous construction (i.e., roofs, storm shelters, carport, etc.), whether residential, commercial or industrial, the fee is as follows:

\$50.00, and all applicable State fees.

(7) For a permit for the demolition or removal of a building or structure or part thereof, the fee shall be \$50.00, and all applicable State fees, provided that, if the demolition is a necessary part of an alteration or improvement for which a permit has been issued, no fee shall be required for such demolition. Provided further, however, that in the case of any permit which shall involve demolition or removal as described above, no permit shall be issue until the city manager, or designee has reviewed the matter. The building inspector, or designee may make appropriate preconditions, conditions and requirements prior to authorizing issuance of a demolition permit, and in such case no demolition permit shall be issued unless and until the applicant has endorsed his or her agreement to the terms of the permit and has granted the City

the right to enter upon the premises to inspect the progress of the demolition in the interests of the public safety, health and welfare.

The payment of the fees provided for in this section shall, in no way, relieve the applicant of the obligation to pay any other fee specified by the Miami Code of Ordinances, for building permits, inspection, certificates or approval of sewer connections, water taps, wiring, or other privileges.

For any development requiring submittal of an application for a conditional letter of map revision, development involving relocation or alterations to a floodway, or any development proceeding under a "Zero-Rise Certification," one thousand dollars (\$1,000.00) 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.

There shall be no permit fee collected from the City of Miami or its trust authorities for development limited to regular utility right of way or street and bridge maintenance in an area of special flood hazard, although a permit is still required.

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, but in which case the City Council must be informed of such action at the next City Council meeting.

#### **Sec. 10-73. 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 manmade 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 or such other information deemed by the floodplain administrator as necessary 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.

#### **Sec. 10-74. Permit issuance.**

Approval or denial of a floodplain development permit is subject to the following factors:

(1) Compliance with the regulations set forth in this Article, including the intent of these regulations to provide for decreased frequency, duration and severity of flooding and to reduce damage to life and property.

(2) 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.

- (3) The costs of providing governmental services during and after flood conditions.
- (4) 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.
- (5) The necessity of the facility to a location that is susceptible to flooding.
- (6) The relationship of the proposed use to the comprehensive plan and zoning designations for the project area.

**Sec. 10-75. Permit denial.**

Floodplain development permit applications may be denied in the following instances, in the discretion of the floodplain administrator:

- (1) the application does not meet any material requirements of this ordinance;
- (2) if the owner of the property or the contractor or contractors that are to do the work on the project commence the work prior to the obtaining of the required permit;
- (3) if the contractor or contractors that are to do the work are not appropriately licensed to do the work as may be required by Chapter 6 (Buildings and Building Regulations);
- (4) if the person acts willfully or with reckless disregard of the rights of others and/or repeatedly violates the provisions of this Article and/or if the person has been adjudicated as having violated the permit provisions of Section 21-26 (Permit) and/or any permit provision under Chapter 6 (Buildings and Building Regulations), or any combination thereof, three (3) or more times within the preceding ten (10) years.

**Sec. 10-76. Permit expiration.**

Floodplain development permits are valid for one hundred eighty (180) 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.

**Sec. 10-77. 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:

- (1) 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;
- (2) It is determined that the permit was issued based on the submission of inaccurate, misleading, or incomplete information;
- (3) It is determined that the permit was issued in error.

**Sec. 10-78. Elevation certificates.**

Any development resulting in a new or substantially improved structure or addition within any area of special flood hazard requires submission of one (1) or more elevation certificates.

Elevation certificates must be completed on the forms authorized and published by FEMA 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 within any area of special flood hazard 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 ("preconstructing elevation certificate"). For accessory structures, only an as-built elevation certificate is required to be completed and submitted.

#### **Sec. 10-79. 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 floodway, community endorsement will not be granted unless the application has detailed the full impacts of the proposed change to all properties within the watershed.

#### **Sec. 10-80. 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 all met:

- (1) The use was lawful and proper at the time it was originated;
- (2) The use does not cease for a period exceeding ninety (90) days;
- (3) The primary structure in which the use is conducted is not determined to be substantially damaged or condemned for occupancy; and
- (4) 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.

#### **Sec. 10-81. Design flood elevation.**

The design flood elevation is hereby established to be twenty-four (24) inches above the value established by the adopted flood insurance study as the encroached water surface elevation of the base flood.

#### **Secs. 10-82. - 10-99. Reserved.**

## **Article V. Development Regulations**

### **Sec. 10-100. 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. Non-residential structures may be flood-proofed in lieu of being elevated. A registered professional engineer or architect, who is authorized to certify such information in the State, shall certify that the provisions of this subsection are satisfied. The FEMA Floodproofing Certificate shall be prepared and submitted to the floodplain administrator along with the corresponding operational and maintenance plans.

(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, and on-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

### **Sec. 10-101. 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 regulated floodways with encroached elevations do not exist, 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 FEMA.

### **Sec. 10-102. Development within regulated floodways.**

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

(1) 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

(2) The City has applied for and been granted a conditional letter of map change by FEMA.

**Sec. 10-103. 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.

**Sec. 10-104. 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 (15) 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.

**Sec. 10-105. Private sewage disposal systems.**

Installation of new private sewage disposal systems within an area of special flood hazard is prohibited. Maintenance and pumping may be performed to existing private systems, provided however, if the City, or any of its trust authorities, has its sewer system available to the property owner, major repairs to a private system involving excavation or replacement of system components is prohibited. In the event that an existing system is so abandoned, it must be properly abandoned or removed pursuant to the requirements of state law and the city's adopted codes.

**Sec. 10-106. Storm shelters.**

Storm shelters or safe rooms being installed in an area of flood hazard must be installed above ground unless no portion of the shelter is located below the design flood elevation. In which case, 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.

**Sec. 10-107. Accessory structures.**

Accessory structures shall can 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:

- (1) (a) The required permits have been obtained; and
- (b) The structure is used only for parking and storage
- (2) The structure is anchored and located so as not to cause damage to nearby structures in the event of flooding.
- (3) The floor area of the structure does not exceed one hundred fifty (150) square feet.
- (4) The interior of the structure is unfinished and has no utility services other than an electrical connection used for lighting and up to two (2) ground-fault type receptacles, provided that all electrical wiring and fixtures are located above the design flood elevation.

(5) 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.

(a) There shall be 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.

(b) The bottom of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) The materials used for construction are flood resistant.

(7) All requirements relating to floodway encroachments are met.

#### **Sec. 10-108. 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 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.

#### **Sec. 10-109. 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.

#### **Sec. 10-110. Parking.**

Parking is permitted within an area of special flood hazard only if the parking is transient in nature and incidental to a use on the same property.

Other parking, including long term parking, and storage of vehicles, is not permitted within an area of special flood hazard.

#### **Sec. 10-111. 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 wastewater treatment facilities, or that cannot be elevated for functional reasons, such as railroad tracks.

Open storage is not permitted within the boundaries of a regulated 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. An emergency evacuation plan must be submitted to the floodplain administrator and must detail reasonable steps to ensure that the stored material will not adversely impact other properties in the event of flooding.

**Sec. 10-112. Critical facilities and hazardous materials.**

No new or substantially improved critical facilities may be located within the boundaries of the .2 percent annual chance (five hundred (500) year) floodplain 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.

**Sec. 10-113. Additional standards for subdivisions within areas of special flood hazard.**

Any proposed subdivision or other new development proposal, including manufactured home parks, 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 Miami 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 regulated 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 applicant of property owners' association. 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-year flood.
- (5) All subdivisions must have public utilities constructed in such a way as to minimize or eliminate the possibility of flood damage.
- (6) Adequate drainage must be provided for all proposed subdivisions to reduce exposure to flood hazards.

**Secs. 10-114. - 10-119. Reserved.**

**Article 6. Enforcement**

**Sec. 10-120. Notices and orders.**

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

**Sec. 10-121. Violations.**

Failure to comply with a provision of this ordinance is a violation of the Code of Ordinances, punishable under the provisions of Sec. 1-5. Failure to comply with a notice or order issued pursuant to this ordinance is a separate violation of the Code of Ordinances, punishable under the provisions of Sec. 1-5. Each day a violation is allowed to persist is a new violation.

**Sec. 10-122. Abatement of violations and emergency measures.**

The City of Miami may act to abate a nuisance created by violation of a provision contained within this article. A minimum of ten (10) days written notice shall be given by mail and/or posting on the property, after which the violation may be abated by city employees or a private contractor. The actual costs of the abatement plus a fee of one hundred fifty (\$150.00) 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 recurs within six (6) 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 Chapter 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 abatement shall be as specified in this Code of Ordinances.

**Sec. 10-123. Designation of Board of Adjustments to hear appeals and variances.**

The City of Miami 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.

**Sec. 10-124. 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.

**Sec. 10-125. Application fee.**

The filing fee for an appeal or variance is one hundred dollars (\$100.00).

**Sec. 10-126. Appeals.**

Any person aggrieved by a decision or interpretation made by the floodplain administrator must appeal that decision to the Miami Board of Adjustment. If the person is aggrieved by the decision of the Board of Adjustment, he or she may appeal the decision to the District Court of Ottawa County, following all applicable requirements as may be set out by Statutes of the State of Oklahoma.

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 OWRB. This notice should be made by mail no later than ten (10) days before the hearing date before the Board of Adjustment.

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 OWRB no later than fifteen (15) days following the date of the action.

**Sec. 10-127. Variances.**

Any person seeking a variance from one (1) or more provisions of this ordinance may file an application for variance with the Miami Board of Adjustment, following all applicable requirements as may be set out by Statutes of the State of Oklahoma.

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:

(1) Submission by the applicant of a technical justification showing good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate;

(2) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot unreasonably undevelopable, considering the flood hazard;

(3) A determination that the granting of the variance will not result in increased flood heights, additional threat to public safety or extraordinary public expense; and

(4) 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 regulated 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 NFIP 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 of Miami 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 Article, 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 any base flood.

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

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 3 - Effective Date

[Choose One (1)]

\_\_\_\_\_ Pursuant to 11 O.S. §14-103, this Ordinance shall take effect thirty (30) days from its final passage unless the City Council specifies a later date:

---

[OR]

\_\_\_\_\_ EMERGENCY CLAUSE. For the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist whereby this Ordinance shall take effect immediately upon passage and publication as required by law. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least  $\frac{3}{4}$  of ALL the members of the City Council (4 affirmative votes required). As required by 11 O.S. §14-103, an emergency measure must state in a separate section why it is necessary that the measure become effective immediately; the reason for the emergency measure is as follows:

In order to maintain the National Flood Insurance Program without interruption, it is in the public's interest to enact this Ordinance immediately.

PASSED AND APPROVED this 11<sup>th</sup> day of September 2019.

\_\_\_\_\_  
Rudy Schultz, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Melissa Moore, City Clerk

\_\_\_\_\_  
Ben Loring, City Attorney

[seal]

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA AMENDING CHAPTER 10 (FLOOD DAMAGE PREVENTION) IN ITS ENTIRETY AND AMENDING CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS) BY ADDING SECTION 6-18 (DENIAL OF PERMITS) TO ARTICLE I (IN GENERAL) OF THE CODE OF ORDINANCES; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Article 2, Section 6, subparagraph 2 of the City Charter provides that the council may enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law; and

**WHEREAS**, the Legislature of the State of Oklahoma has in 82 O.S. §§ 1601-1618, as amended, delegated the responsibility to local governmental units to adopt ordinances designed to minimize flood losses; and

**WHEREAS**, the City Council has determined that there is a significant local need for flood insurance within the boundaries of the City of Miami and it is the explicit desire of the Council to participate in the National Flood Insurance Program (NFIP)

**WHEREAS**, 44 Code of Federal Regulations §59.22 and §60.3 require the City of Miami to evidence compliance with NFIP Floodplain Management criteria; and

**WHEREAS**, the Code of Ordinances, enacted in 1964, regulated various aspects of floodplain management within the City of Miami at § 8A-2, and thereafter same was amended by Ordinance No. 1564, effective August 5, 2010; and

**WHEREAS**, an amended Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for the City of Miami, Oklahoma and which will become effective on September 13, 2019; and

**WHEREAS**, to fully implement the enforcement of these flood ordinances, it is also necessary to modify the enforcement provisions of Chapter 6 (Buildings and Building Regulations).

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Miami, Oklahoma:

Section 1- Amendment

Chapter 10 (Flood Damage Prevention) of the Code of Ordinances is amended in its entirety to state as follows:

Chapter 10

**FLOOD DAMAGE PREVENTION**

**Article I. In General**

**Sec. 10-1. Title.**

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

**Sec. 10-2. 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 or 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.

**Sec. 10-3. 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 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 the entire community; and
- (10) Allow for the availability of reasonably priced flood insurance by meeting the minimum requirements for community participation in the NFIP as set forth in the Code of Federal Regulations at 44 CFR 59.22 and 44 CFR 60.3(d).

**Sec. 10-4. Findings of fact.**

The following findings are hereby made:

- (1) Areas exist within the City of Miami 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/or expenditure of public funds for disaster relief and flood protection, all of which adversely affect 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, duration 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, duration and severity of flood damage.

**Sec. 10-5. Methods of reducing flood loss.**

The following methods are employed within this ordinance in order to reduce the frequency, duration 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 flood waters 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.

**Sec. 10-6. Warning and disclaimer of liability.**

The degree of flood protection required by this Ordinance meets or exceeds the minimum standards required for community participation in the NFIP 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 City or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**Sec. 10-7. 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 to neither limit nor repeal any other powers granted under state statutes or the City Charter or other ordinances.

**Sec. 10-8. 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 (Chapter 6). This ordinance is not intended to amend the Miami Planning and Development Ordinances (Chapter 18), Subdivision Ordinances (Chapter 22) or Zoning Ordinances (Chapter 26) or the 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 Oklahoma 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.

#### **Sec. 10-9. 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 Residential Code, International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, National Electrical Code, International Property Maintenance Code all together with any local modifications, amendments, and adopted appendices and any other code hereinafter adopted by the Oklahoma Uniform Building Code Commission and the City of Miami, together with all such modifications, amendments and other changes as the same shall be provided by current or future orders and ordinances of said Commission and the City. 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.

#### **Sec. 10-10. 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 structures which are 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, carports, well houses, and storage sheds.

*Alteration of a watercourse* means an alteration of a watercourse including, 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 the City limits subject to a one (1) percent or greater chance of flooding in any given year.

*Base flood* means the flood having a one (1) 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 subgrade (below ground level) on all sides.

*Building inspector* means the individual(s) designated in Chapter 6 of the City of Miami 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, ambulance 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, at least twenty-four (24) inches above the base flood elevation and used for regulatory purposes.

*Development* means any manmade change to improve or unimproved real estate, including but not limited to:

(1) Construction, placement, repair, remodeling, or demolition of buildings, temporary structures, accessory structures, tanks, oil and gas equipment, or any other structures or appurtenances thereto;

(2) Grading, filling, paving, drilling, mining, dredging or excavating; or

(3) 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 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 the effective date of the floodplain management regulations adopted by the City of Miami.

*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.

*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 waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source; and

(3) The unnatural accumulation of surface water in and around rivers, streams and creeks from any source, but including accumulations due to the backwater effect caused by dams, other obstructions or siltation.

*Flood insurance rate map (FIRM)* means the most recent official map of the City of Miami, or the official digital representations thereof, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the City of Miami.

*Flood insurance study* is the official report provided by FEMA for the City of Miami. 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 OWRB and designated by the city manager to administer and implement laws, ordinances 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 this floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police powers. The term describes such state or local ordinances and 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 or duration of associated flooding. Such a system typically includes 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 nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures of all sorts and their contents.

*Floodway (regulated floodway)* means the highly regulated channel of a river or other watercourse and the adjacent land areas that must be preserved 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 Miami if it ever establishes a historic preservation program that is 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 manmade 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 (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. 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 (2) 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 (not including the value of the real estate), as determined by the Ottawa County Assessor, shall be presumed to be the market value unless verifiable, reasonable 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:

(1) 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; or

(2) for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by the City Miami 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 Miami.

*NFIP* means the National Flood Insurance Program under the National Flood Insurance Act.

*OWRB* means the Oklahoma Water Resources Board, or its replacement entity.

*Recreational vehicle* means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (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*, 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 one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on 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 fifty (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 or legal entity 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 noncompliant 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 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.

**Secs. 10-11. - 10-35. Reserved.**

## **Article II. FLOOD HAZARD AREAS**

### **Sec. 10-36. Lands to which this ordinance applies.**

This ordinance shall apply to all areas of special flood hazard (the one (1) percent annual chance floodplain) within the jurisdiction of the City of Miami, 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 percent annual chance (five hundred (500) year) floodplain within the jurisdiction of the City of Miami. Mapping standards contained within this ordinance shall apply to all areas within the jurisdiction of the City of Miami.

### **Sec. 10-37. Basis for establishing areas of special flood hazard, regulated floodways and other flood hazard areas.**

The Flood Insurance Study for Ottawa County, Oklahoma and Incorporated Areas, dated September 13, 2019 and published by FEMA, and its accompanying flood insurance rate maps, are hereby adopted, which includes the base flood elevations, delineations of areas of special flood hazard and regulated floodways, and designation of risk zones as set out in said maps. For the purpose of compliance with the regulations contained within this ordinance, letters of map change revalidated or subsequently approved by FEMA 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 (dated August 5, 2010), unless that development would have been permitted based on the water surface elevations contained in that previous study.

**Secs. 10-38. - 10-60. Reserved.**

### **ARTICLE III. - FLOODPLAIN ADMINISTRATOR**

#### **Sec. 10-61. Designation of floodplain administrator.**

The city manager shall, in writing, appoint 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.

#### **Sec. 10-62. 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.
- (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 regulated 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 (1) 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 regulated 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 or around the City unless the City 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 City endorsement, make a determination that the proposed map change is in the best interest of the City of Miami and will not serve to create adverse impacts on any property in or around 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 OWRB, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (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 FEMA for the purpose of denial of insurance coverage under Section 1316 of the National Flood Insurance Act.
- (17) Coordinate with the city's building inspector to assure that applications for building permits comply with the applicable requirements of this ordinance.
- (18) Notify the OWRB and FEMA of any modifications to the corporate limits of the city.

**Sec. 10-63. Accreditation of floodplain administrator.**

As soon as is practicable following the appointment, the floodplain administrator must be accredited by the OWRB in accordance with Title 82 O.S. §§ 1601 *et seq.*, as amended.

**Sec. 10-64. Assistance in times of disaster.**

In times of flooding or other disaster impacting structures within the municipal limits of Miami due to flood hazards, 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 inspectors from other communities, staff from federal and state agencies including FEMA and the OWRB, and members of disaster relief organizations

including, but not limited to the Oklahoma Floodplain Managers Association's Disaster Response Team.

**Secs. 10-65. - 10-70. Reserved.**

#### **ARTICLE IV. FLOODPLAIN DEVELOPMENT PERMITS, ELEVATION CERTIFICATES AND LETTERS OF MAP CHANGE**

**Sec. 10-71. 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, fees have been paid and such a permit has been issued.

**Sec. 10-72. Permit and inspection fees.**

No application for a floodplain development permit required by this Chapter shall be accepted and no such permit shall be issued until the following fees and the reasonably anticipated inspection fees as determined necessary by the floodplain administrator have been paid to the City in addition to any fee(s) which may otherwise be required by law for the City to collect:

(1) For a permit for a new residential building or structure the fee based on the estimated improvement is as follows:

Up to first 1,000 square feet . . . \$150.00

Each additional 100 square feet . . . \$5.00

(2) For a permit for additions/remodels or the alteration or improvement of an existing residential structure, the fee based on the estimated improvement is as follows:

Up to first 500 square feet . . . \$55.00

Each additional 100 square feet . . . \$5.00

(3) For a permit for a new commercial or industrial building or structure the fee based on the estimated improvement is as follows:

Up to first 1,000 square feet . . . \$200.00

Each additional 100 square feet . . . \$5.00

(4) For a permit for additions/remodels or the alteration of an existing commercial or industrial building or structure the fee based on the estimated improvement is as follows:

Up to first 1,000 square feet . . . \$150.00

Each additional 100 square feet . . . \$5.00

(5) For a permit for a new accessory building for storage only, whether residential, commercial or industrial, the fee based on the estimated improvement is as follows:

Up to first 200 square feet . . . \$55.00

Each additional 100 square feet . . . \$5.00

(6) For a permit for miscellaneous construction (i.e., roofs, storm shelters, carport, etc.), whether residential, commercial or industrial, the fee is as follows:

\$50.00, and all applicable State fees.

(7) For a permit for the demolition or removal of a building or structure or part thereof, the fee shall be \$50.00, and all applicable State fees, provided that, if the demolition is a necessary part of an alteration or improvement for which a permit has been issued, no fee shall be required for such demolition. Provided further, however, that in the case of any permit which shall involve demolition or removal as described above, no permit shall be issued until the city manager, or designee has reviewed the matter. The building inspector, or designee may make appropriate preconditions, conditions and requirements prior to authorizing issuance of a demolition permit, and in such case no demolition permit shall be issued unless and until the applicant has endorsed his or her agreement to the terms of the permit and has granted the City the right to enter upon the premises to inspect the progress of the demolition in the interests of the public safety, health and welfare.

The payment of the fees provided for in this section shall, in no way, relieve the applicant of the obligation to pay any other fee specified by the Miami Code of Ordinances, for building permits, inspection, certificates or approval of sewer connections, water taps, wiring, or other privileges.

For any development requiring submittal of an application for a conditional letter of map revision, development involving relocation or alterations to a floodway, or any development proceeding under a "Zero-Rise Certification," one thousand dollars (\$1,000.00) 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.

There shall be no permit fee collected from the City of Miami or its trust authorities for development limited to regular utility right of way or street and bridge maintenance in an area of special flood hazard, although a permit is still required.

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, but in which case the City Council must be informed of such action at the next City Council meeting.

#### **Sec. 10-73. 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 manmade 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 or such other information deemed by the floodplain administrator as necessary 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.

**Sec. 10-74. Permit issuance.**

Approval or denial of a floodplain development permit is subject to the following factors:

(1) Compliance with the regulations set forth in this Article, including the intent of these regulations to provide for decreased frequency, duration and severity of flooding and to reduce damage to life and property.

(2) 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.

(3) The costs of providing governmental services during and after flood conditions.

(4) 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.

(5) The necessity of the facility to a location that is susceptible to flooding.

(6) The relationship of the proposed use to the comprehensive plan and zoning designations for the project area.

**Sec. 10-75. Permit denial.**

Floodplain development permit applications may be denied in the following instances, in the discretion of the floodplain administrator:

(1) the application does not meet any material requirements of this ordinance;

(2) if the owner of the property or the contractor or contractors that are to do the work on the project commence the work prior to the obtaining of the required permit;

(3) if the contractor or contractors that are to do the work are not appropriately licensed to do the work as may be required by Chapter 6 (Buildings and Building Regulations);

(4) if the person acts willfully or with reckless disregard of the rights of others and/or repeatedly violates the provisions of this Article and/or if the person has been adjudicated as having violated the permit provisions of Section 21-26 (Permit) and/or any provision or under Chapter 6 (Buildings and Building Regulations), or any combination thereof, three (3) or more times within the preceding ten (10) years.

**Sec. 10-76. Permit expiration.**

Floodplain development permits are valid for one hundred eighty (180) 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.

**Sec. 10-77. 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:

(1) 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;

(2) It is determined that the permit was issued based on the submission of inaccurate, misleading, or incomplete information;

(3) It is determined that the permit was issued in error.

**Sec. 10-78. Elevation certificates.**

Any development resulting in a new or substantially improved structure or addition within any area of special flood hazard requires submission of one (1) or more elevation certificates.

Elevation certificates must be completed on the forms authorized and published by FEMA 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 within any area of special flood hazard 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 ("preconstructing elevation certificate"). For accessory structures, only an as-built elevation certificate is required to be completed and submitted.

**Sec. 10-79. 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 floodway, community endorsement will not be granted unless the application has detailed the full impacts of the proposed change to all properties within the watershed.

**Sec. 10-80. 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 all met:

- (1) The use was lawful and proper at the time it was originated;
- (2) The use does not cease for a period exceeding ninety (90) days;
- (3) The primary structure in which the use is conducted is not determined to be substantially damaged or condemned for occupancy; and
- (4) 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.

**Sec. 10-81. Design flood elevation.**

The design flood elevation is hereby established to be twenty-four (24) inches above the value established by the adopted flood insurance study as the encroached water surface elevation of the base flood.

**Secs. 10-82. - 10-99. Reserved.**

**Article V. Development Regulations**

**Sec. 10-100. 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; Non-residential structures may be flood-proofed in lieu of being elevated. A registered professional engineer or architect, who is authorized to certify such information in the State, shall certify that the provisions of this subsection are satisfied. The FEMA Floodproofing Certificate shall be prepared, and submitted to the Floodplain Management Administrator along with the corresponding operational and maintenance plans.

(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, and on-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

**Sec. 10-101. 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 regulated floodways with encroached elevations do not exist, 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 FEMA.

**Sec. 10-102. Development within regulated floodways.**

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

(1) 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

(2) The City has applied for and been granted a conditional letter of map change by FEMA.

**Sec. 10-103. 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.

**Sec. 10-104. 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 (15) 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.

**Sec. 10-105. Private sewage disposal systems.**

Installation of new private sewage disposal systems within an area of special flood hazard is prohibited. Maintenance and pumping may be performed to existing private systems, provided however, if the City, or any of its trust authorities, has its sewer system available to the property owner, major repairs to a private system involving excavation or replacement of system components is prohibited. In the event that an existing system is so abandoned, it must be properly abandoned or removed pursuant to the requirements of state law and the city's adopted codes.

**Sec. 10-106. Storm shelters.**

Storm shelters or safe rooms being installed in an area of flood hazard must be installed above ground unless no portion of the shelter is located below the design flood elevation. In which case, 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.

**Sec. 10-107. Accessory structures.**

Accessory structures shall can 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:

- (1) (a) The required permits have been obtained; and
- (b) The structure is used only for parking and storage

(2) The structure is anchored and located so as not to cause damage to nearby structures in the event of flooding.

(3) The floor area of the structure does not exceed one hundred fifty (150) square feet.

(4) The interior of the structure is unfinished and has no utility services other than an electrical connection used for lighting and up to two (2) ground-fault type receptacles, provided that all electrical wiring and fixtures are located above the design flood elevation.

(5) 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.

(a) There shall be 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.

(b) The bottom of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) The materials used for construction are flood resistant.

(7) All requirements relating to floodway encroachments are met.

#### **Sec. 10-108. 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 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.

#### **Sec. 10-109. 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.

#### **Sec. 10-110. Parking.**

Parking is permitted within an area of special flood hazard only if the parking is transient in nature and incidental to a use on the same property.

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

#### **Sec. 10-111. 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 wastewater treatment facilities, or that cannot be elevated for functional reasons, such as railroad tracks.

Open storage is not permitted within the boundaries of a regulated 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. An emergency evacuation plan

must be submitted to the floodplain administrator and must detail reasonable steps to ensure that the stored material will not adversely impact other properties in the event of flooding.

**Sec. 10-112. Critical facilities and hazardous materials.**

No new or substantially improved critical facilities may be located within the boundaries of the .2 percent annual chance (five hundred (500) year) floodplain 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.

**Sec. 10-113. Additional standards for subdivisions within areas of special flood hazard.**

Any proposed subdivision or other new development proposal, including manufactured home parks, 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 Miami 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 regulated 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 applicant of property owners' association. 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-year flood.

(5) All subdivisions must have public utilities constructed in such a way as to minimize or eliminate the possibility of flood damage.

(6) Adequate drainage must be provided for all proposed subdivisions to reduce exposure to flood hazards.

**Secs. 10-114. - 10-119. Reserved.**

**Article 6. Enforcement**

**Sec. 10-120. Notices and orders.**

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

**Sec. 10-121. Violations.**

Failure to comply with a provision of this ordinance is a violation of the Code of Ordinances, punishable under the provisions of Sec. 1-5. Failure to comply with a notice or order issued pursuant to this ordinance is a separate violation of the Code of Ordinances,

punishable under the provisions of Sec. 1-5. Each day a violation is allowed to persist is a new violation.

**Sec. 10-122. Abatement of violations and emergency measures.**

The City of Miami may act to abate a nuisance created by violation of a provision contained within this article. A minimum of ten (10) days written notice shall be given by mail and/or posting on the property, after which the violation may be abated by city employees or a private contractor. The actual costs of the abatement plus a fee of one hundred fifty (\$150.00) 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 recurs within six (6) 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 Chapter 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 abatement shall be as specified in this Code of Ordinances.

**Sec. 10-123. Designation of Board of Adjustments to hear appeals and variances.**

The City of Miami 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.

**Sec. 10-124. 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.

**Sec. 10-125. Application fee.**

The filing fee for an appeal or variance is one hundred dollars (\$100.00).

**Sec. 10-126. Appeals.**

Any person aggrieved by a decision or interpretation made by the floodplain administrator must appeal that decision to the Miami Board of Adjustment. If the person is aggrieved by the decision of the Board of Adjustment, he or she may appeal the decision to the District Court of Ottawa County, following all applicable requirements as may be set out by Statutes of the State of Oklahoma.

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 OWRB. This notice should be made by mail no later than ten (10) days before the hearing date before the Board of Adjustment.

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 OWRB no later than fifteen (15) days following the date of the action.

**Sec. 10-127. Variances.**

Any person seeking a variance from one (1) or more provisions of this ordinance may file an application for variance with the Miami Board of Adjustment, following all applicable requirements as may be set out by Statutes of the State of Oklahoma.

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:

- (1) Submission by the applicant of a technical justification showing good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate;
- (2) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot unreasonably undevelopable, considering the flood hazard;
- (3) A determination that the granting of the variance will not result in increased flood heights, additional threat to public safety or extraordinary public expense; and
- (4) 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 regulated 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 NFIP 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 of Miami 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 any base flood.

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

Section 2 - Severability

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 4 - Effective Date

[Choose One (1)]

\_\_\_\_\_ Pursuant to 11 O.S. §14-103, this Ordinance shall take effect thirty (30) days from its final passage unless the City Council specifies a later date:

\_\_\_\_\_

[OR]

\_\_\_\_\_ EMERGENCY CLAUSE. For the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist whereby this Ordinance shall take effect immediately upon passage and publication as required by law. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least  $\frac{3}{4}$  of ALL the members of the City Council (4 affirmative votes required). As required by 11 O.S. §14-103, an emergency measure must state in a separate section why it is necessary that the measure become effective immediately; the reason for the emergency measure is as follows:

\_\_\_\_\_

\_\_\_\_\_

It is in the public economic interest to enact this Ordinance immediately.

PASSED AND APPROVED this 3<sup>rd</sup> day of September 2019.

\_\_\_\_\_  
Rudy Schultz, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Melissa Moore, Deputy City Clerk

\_\_\_\_\_  
Ben Loring, City Attorney

[seal]