

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
CREEK COUNTY, OKLAHOMA**

2016 – 36

RESOLUTION REPEALING RESOLUTION 2009-12 AND PREVIOUSLY ADOPTED FLOOD PLAIN MANAGEMENT REGULATIONS, ADOPTING NEW FLOOD PLAIN MANAGEMENT REGULATIONS, AND ABOLISHING THE CREEK COUNTY FLOOD PLAIN MANAGEMENT BOARD VESTING THE DUTIES OF SAID BOARD IN THE BOARD OF ADJUSTMENT OF CREEK COUNTY, OKLAHOMA.

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 regulations designed to minimize flood losses.

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

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

NOW THEREFORE BE IT RESOLVED THAT, THE BOARD OF COUNTY COMMISSIONERS OF CREEK COUNTY ARE ADOPTING NEW FLOOD PLAIN MANAGEMENT REGULATIONS (attached hereto as exhibit "A"), AND ABOLISHING THE CREEK COUNTY FLOOD PLAIN MANAGEMENT BOARD VESTING THE DUTIES OF SAID BOARD IN THE BOARD OF ADJUSTMENT OF CREEK COUNTY, OKLAHOMA PER THE AUTHORITY GIVEN THIS BOARD BY 82 O.S. § 1601-1618.

FURTHER BE IT RESOLVED THAT THIS RESOLUTION SHALL TAKE EFFECT AND BE IN FORCE IMMEDIATELY.

DONE THIS 9 DAY OF May, 2016.

BOARD OF COUNTY COMMISSIONERS
CREEK COUNTY, OKLAHOMA



NEWT STEPHENS, JR, CHAIRMAN



LANE WHITEHOUSE, VICE-CHAIRMAN



RICK STEWART, MEMBER



JENNIFER MORTAZAVI
COUNTY CLERK

EXHIBIT "A" OF RESOLUTION 2016- 36
REVISED CREEK COUNTY FLOODPLAIN BOARD
CREEK COUNTY FLOODPLAIN REGULATIONS
EFFECTIVE MAY 09, 2016
ADOPTED MAY 09, 2016

ARTICLE I
STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS
SECTION A. STATUTORY AUTHORIZATION

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 regulations designed to minimize flood losses. Therefore, the Creek County Floodplain Board adopts the following floodplain management regulations, to be effective on and after MAY 09, 2016:

SECTION B. FINDINGS OF FACT

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

SECTION C. STATEMENT OF PURPOSE

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

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish their purposes, these regulations use the following methods:

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

ARTICLE II DEFINITIONS

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

"Accessory structure" - means a structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Examples of accessory structures include but are not limited to garages and storage sheds.

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

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

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

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

"BFE" - means base flood elevation.

"CFR" - means Code of Federal Regulations.

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

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

"Development Permit" - means a permit issued by the Creek County Board of Adjustment or Floodplain Administrator which authorizes development in a special flood hazard area in accordance with these regulations.

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

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

"Existing manufactured home park or subdivision" - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be

affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 6, 1985.

"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 manufacture homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FEMA" means the Federal Emergency Management Agency.

"FIRM" means Flood Insurance Rate Map.

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

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

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

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

"Floodplain Administrator" - means a person accredited by the OWRB and designated by a Board of Adjustment, to administer and implement laws and regulations relating to the management of the floodplains.

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

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

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

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

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

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

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

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

"Historic structure" - means any structure that is:

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

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

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

"Lowest floor" - means the lowest floor of the lowest enclosed area (including basement). A unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of Title 44 CFR.

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

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

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

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

"OWRB" - means the Oklahoma Water Resources Board.

"Recreational vehicle" - means a vehicle which is:

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

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

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

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

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

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

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

"Violation" - means the failure of a structure or other development to be fully compliant with these Creek County Floodplain Management Regulations.

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

ARTICLE III GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THESE REGULATIONS APPLY

These floodplain management regulations shall apply to all areas of special flood hazard within the jurisdiction of the unincorporated limits of Creek County, Oklahoma.

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

The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled, "The Flood Insurance Study for Creek County, Oklahoma and Incorporated Areas" dated May 18, 2009, with the accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of these regulations.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

In the interpretation and application of these regulations, all provisions shall be:

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by these regulations 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. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Creek County or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

ARTICLE IV ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Creek County Floodplain Board shall appoint a Floodplain Administrator by resolution to administer and implement the provisions of these regulations and other appropriate sections of National Flood Insurance Program regulations in Title 44 CFR pertaining to floodplain management.

SECTION B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

1. Become accredited by the OWRB in accordance with Title 82 O.S. §§ 1601-1618, as amended.
2. Review permit applications to determine whether the proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for Development Permits required by these regulations.
4. Review proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval are required.
5. Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
6. Notify, in riverine situations, adjacent communities and the OWRB prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA.
7. Assure that the flood carrying capacity within the altered or relocated portion of any water course is maintained.
8. When base flood elevation data contemplated by Article III, Section B has not been provided by FEMA, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from any Federal, State or other source, in order to administer the provisions of Article V.
9. When a floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE as delineated on the Creek County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the unincorporated limits of Creek County.
10. After a disaster or other type of damage occurrence to structures in the unincorporated limits of Creek County, Oklahoma, determine if the residential and non-residential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.
11. Maintain a record of all actions involving an appeal from a decision of the Creek County Board of Adjustment.
12. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations.

SECTION C. PERMIT PROCEDURES

1. An Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
- c. A certificate from a registered professional engineer or architect that the non residential flood proofed structure shall meet the flood proofing criteria of Article V, Section 8(2); and
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of these regulations and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- j. The relationship of the proposed use to the comprehensive plan for that area.

3. The Creek County Board of Adjustment may approve certain development in Zones A or AE delineated on the Creek County FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the applicant for the Development Permit in that case first complies with 44 CFR Section 65.12.

SECTION D. VARIANCES

1. General provisions.

- a. The Floodplain Board may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or these regulations, if the applicant for the variance presents adequate proof that (i) compliance with these regulations will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent provisions of this Section D. Provided, however, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards.
- b. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.
- c. In no case shall variances be effective for a period longer than twenty (20) years.
- d. Any person seeking a variance shall file a petition with the Creek County Board of Adjustment, accompanied by a filing fee of Twenty-five Dollars (\$25.00).
- e. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed

below the base flood level, providing the relevant factors in Section C(2) and provisions of Section D of this Article IV have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

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

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

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

i. Variances shall only be issued upon:

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

j. Upon consideration of the factors stated in this Section D and the intent of these regulations, the Creek County Board of Adjustment may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in Article I, Section C of these regulations.

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

2. Special provisions.

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

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

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

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

(1) The criteria of Section D(1)(e); Section D(1)(i); Section D(2)(b); and Section D(2)(c) of this Article IV are met, and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE V PROVISIONS FOR FLOOD HAZARD REDUCTION

- (g) The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;
- (h) Floodway requirements must be met in the construction of the structure;
- (i) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and
- (k) The structure shall be located so as not to cause damage to adjacent and nearby structures.

SECTION C. STANDARDS FOR SUBDIVISIONS

1. The applicant for a Development Permit for any subdivision located in Zone A which is 51 or more lots or greater than 5 acres shall generate the base flood elevation data for that subdivision.
2. All subdivisions including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
3. All subdivisions including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. FLOODWAYS

Areas located within areas of special flood hazard areas as established in Article III, Section B, area designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments, including but not limited to fill, new construction, substantial improvements and other development are prohibited within the adopted floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within Creek County during the occurrence of the base flood discharge.
2. If Article V, Section 0.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.
3. Creek County may permit encroachments within the adopted floodway that would result in an increase in base flood elevations, provided that the applicant for the Development Permit complies with all of 44 CFR Section 65.12.

SECTION E. SEVERABILITY

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

ARTICLE VI PENAL TIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these regulations and other applicable regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article V, Section 0.1 is presumed to be in violation until such time as that documentation is provided. Violation of the provisions of these regulations by failure to comply with any of their requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of their requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than one year or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the, Creek County Board of County

Commissioners or District Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION

It is hereby found and declared by the Creek County Board of Adjustment that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, it is necessary that these regulations become effective immediately.

Therefore, an emergency is hereby declared to exist, and these regulations, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after their passage and approval.

These regulations go into effect on MAY 09, 2016, and on and after that date supersede any previous floodplain management regulations applicable to Creek County.