

Planning, Zoning and Development

PART 12

PLANNING, ZONING AND DEVELOPMENT

CHAPTER 1

PLANNING COMMISSION

- Section 12-101 Created, membership
- Section 12-102 Chairman, secretary
- Section 12-103 Rules and regulations
- Section 12-104 Duties and powers
- Section 12-105 Procedure
- Section 12-106 Plats and subdivisions
- Section 12-107 Expenditures

CHAPTERS 2 AND 3

ZONING REGULATIONS

- Section 12-201 Zoning ordinance adopted
- Section 12-202 Penalty

CHAPTER 4

SUBDIVISION REGULATIONS

- Section 12-401 Subdivision regulations adopted
- Section 12-402 Penalty

CHAPTER 5

FLOOD HAZARD PREVENTION

- Section 12-501 Statutory Authorization
- Section 12-502 Findings of fact
- Section 12-503 Statement of Purpose
- Section 12-504 Methods of Reducing Flood Losses
- Section 12-505 Definitions
- Section 12-506 Lands to Which this Ordinance Applies
- Section 12-507 Basis for Establishing the areas of Special Flood Hazard
- Section 12-508 Establishment of Development Permit
- Section 12-509 Compliance

## Planning, Zoning and Development

Section 12-510	Abrogation and Greater Restrictions
Section 12-511	Interpretation
Section 12-512	Warning and Disclaimer or Liability
Section 12-513	Designation of the Floodplain Administrator
Section 12-514	Duties and Responsibilities of the Floodplain Administrator
Section 12-515	Permit Procedures
Section 12-516	Variances
Section 12-517	General Standards
Section 12-518	Specific Standards
Section 12-519	Standards for Subdivision
Section 12-520	Floodways
Section 12-521	Severability
Section 12-522	Floodplain Management Fee Schedule
Section 12-523	Penalties for Noncompliance
Section 12-524	Certification
Section 12-525	Storm Water Discharge

### CHAPTER 6

#### PUBLIC HEARING PROCESS FOR VARIOUS STATE OR FEDERAL PROGRAMS

Section 12-601	Purpose for public hearings
Section 12-602	Receipt of notice for hearing
Section 12-603	Publication
Section 12-604	Conduct of hearing
Section 12-605	Recordation of hearing
Section 12-606	Evidence
Section 12-607	Findings of fact and final order by city council
Section 12-608	Appeal
Section 12-609	Hearings in other jurisdictions
Section 12-610	Housing law compliance

### CHAPTER 7

#### ESTABLISH DOWNTOWN ADVISORY BOARD

Section 12-701	Downtown Advisory Board
Section 12-702	Board of Directors, Term, Removal
Section 12-703	Officers, Rules
Section 12-704	Meetings
Section 12-705	Duties, Powers, and Scope

Planning, Zoning and Development

CHAPTER 8

SPECIFIC USE PERMITS

- Section 12-801 Purpose
- Section 12-802 Conditions for Approval
- Section 12-803 Specific Use List
- Section 12-804 Use Conditions
- Section 12-805 Administration

CHAPTER 9

FAIR HOUSING

- Section 12-901 Policy
- Section 12-902 Definitions
- Section 12-903 Unlawful Practice
- Section 12-904 Discrimination in the Sale or Rental of Housing
- Section 12-905 Discrimination in the financing of housing
- Section 12-906 Discrimination in the Provision of Brokerage Services
- Section 12-907 Exemption
- Section 12-908 Administration
- Section 12-909 Education and Conciliation
- Section 12-910 Enforcement
- Section 12-911 Investigation; Subpoenas; Giving of Evidence
- Section 12-912 Enforcement by Private Persons
- Section 12-913 Interference, coercion or Intimidation
- Section 12-914 Separability of Provision
- Section 12-915 Prevention of Intimidation in Fair Housing Cases

Planning, Zoning and Development

CHAPTER 1

PLANNING COMMISSION

- Section 12-101 Created, membership
- Section 12-102 Chairman, secretary
- Section 12-103 Rules and regulations
- Section 12-104 Duties and powers
- Section 12-105 Procedure
- Section 12-106 Plats and subdivisions
- Section 12-107 Expenditures

SECTION 12-101 CREATED, MEMBERSHIP

There is hereby created a planning commission to be composed of five (5) members, and the mayor and city engineer as ex officio members. Upon the creation of such planning commission, the mayor shall nominate one member to serve for a period of one year, two (2) members to serve for a period of two (2) years, two (2) members to serve for a period of three (3) years. Such nominees shall be confirmed by the city council. The members of the planning commission appointed upon the passage and approval of this chapter shall all serve an interim term to the next following first day of June, on which date the respective terms of office of the commissioners so appointed shall begin. Upon nominating such commissioners, the mayor shall designate which of such commissioners shall serve for a period of one year, which of such commissioners shall serve for a period of two (2) years and which of such commissioners shall serve for a period of three (3) years. The members of the planning commission shall be appointed from residents of the city and an effort is to be made to secure the services of persons best qualified to plan for the future growth, development and planning for the city as a whole. The members of the planning commission shall serve without salary. In the event of a vacancy on the commission for any reason, a successor shall be appointed as herein provided for the unexpired term only of such vacancy.

SECTION 12-102 CHAIRMAN, SECRETARY

Immediately after the appointment and qualification of the members of the planning commission, the commission shall meet and elect one of their number as chairman and one of their number as secretary. Such officers when so elected shall serve in their respective capacity until the next following June 1, at which time a chairman and secretary shall be elected for a term of one year, or until their successors are elected and qualified.

## Planning, Zoning and Development

### SECTION 12-103 RULES AND REGULATIONS

The planning commission shall prescribe rules and regulations governing and controlling the transaction of business before it, and shall determine a date each month for regular meetings. Special meetings may be called at any time by the chairman of the commission.

### SECTION 12-104 DUTIES AND POWERS

The duties and powers of the planning commission shall be as

1. To investigate and recommend to the mayor and city council suitable zoning ordinances for the city;
2. To investigate and make recommendations concerning the physical development, growth, improvement, convenience and beautification of the city;
3. To investigate all matters relating to the location and development of parks, recreation places, streets, public grounds, location and design of public buildings and public structures, and to make report of their findings on any proposed or contemplated project relative to any of the above matters to the city council of the city; and
4. All findings and recommendations of the planning commission affecting private property shall be submitted in writing to the city council of the city for their examination, approval or rejection.

### SECTION 12-105 PROCEDURE

All projects or matters that fall within the purview of the duties of the planning commission, as herein specified, that may come before the city council shall be referred to the planning commission for investigation and report on any matter or subject referred to it for a period of sixty (60) days. A failure to report within sixty (60) days shall be considered a refusal to approve the proposed plan or project, and the city council may thereupon act upon such proposal, plan or project as though such matter had not been referred to the planning commission.

## Planning, Zoning and Development

### SECTION 12-106 PLATS AND SUBDIVISIONS

No platting of unplatted property in the city and no platting of any existing subdivisions in the city shall be permitted until such plat or subdivision shall be presented to the planning commission. Upon such proposed plat or subdivision being presented to the planning commission, it shall within thirty (30) days make its findings and recommendations to the city council of the city concerning the adoption, modification or rejection of the platting, replatting or subdivision.

### SECTION 12-107 EXPENDITURES

The planning commission shall as required make application to the city council for the funds that may be necessary for such planning commission to expend in order to carry out its duties as herein specified. Commencing with the next fiscal year following the enactment of this chapter, the planning commission shall make application to the city council for an appropriation to be set up for its use in carrying out its duties, and the city may include such appropriation in its budget.

Planning, Zoning and Development

CHAPTERS 2 AND 3

ZONING REGULATIONS

SECTION 12-201 ZONING ORDINANCE ADOPTED

The city has adopted Ordinance No.377, setting forth zoning regulations of the city, and all amendments thereto, as the city's zoning regulations. This zoning ordinance, and all amendments thereto, are hereby adopted and incorporated herein by reference and are applicable in the city as fully as if set out at length herein. A copy of the zoning ordinance and amendments are on file in the office of the city clerk.

SECTION 12-202 PENALTY

Any violation of the city's zoning regulations, as set out in Sec. 12-201 of the code or in ordinances of the city, is punishable as provided in Section 1-108 of this code. Each separate day that a violation continues shall constitute a separate offense.

Planning, Zoning and Development

CHAPTER 4

SUBDIVISION REGULATIONS

Section 12-401 Subdivision Regulations Adopted

Section 12-402 Penalty

SECTION 12-401 SUBDIVISION REGULATIONS ADOPTED

There is hereby adopted and incorporated herein by reference the Subdivision Regulations adopted by the City, as contained in Ordinance No.390, 9/19/88, and all amendments thereto, which are applicable in the city as fully as if set out at length herein. At least one copy of the subdivision regulations are on file with the city clerk.

SECTION 12-402 PENALTY

Any person who violates any provision of this chapter shall, upon conviction, be punished as provided in Section 1-108 of this code.



Planning, Zoning and Development

CHAPTER 5

FLOOD HAZARD PREVENTION

Section 12-501	Statutory Authorization
Section 12-502	Findings of fact
Section 12-503	Statement of Purpose
Section 12-504	Methods of Reducing Flood Losses
Section 12-505	Definitions
Section 12-506	Lands to Which this Ordinance Applies
Section 12-507	Basis for Establishing the areas of Special Flood Hazard
Section 12-508	Establishment of Development Permit
Section 12-509	Compliance
Section 12-510	Abrogation and Greater Restrictions
Section 12-511	Interpretation
Section 12-512	Warning and Disclaimer or Liability
Section 12-513	Designation of the Floodplain Administrator
Section 12-514	Duties and Responsibilities of the Floodplain Administrator
Section 12-515	Permit Procedures
Section 12-516	Variances
Section 12-517	General Standards
Section 12-518	Specific Standards
Section 12-519	Standards for Subdivision
Section 12-520	Floodways
Section 12-521	Severability
Section 12-522	Floodplain Management Fee Schedule
Section 12-523	Penalties for Noncompliance
Section 12-524	Certification
Section 12-525	Storm Water Discharge

## Planning, Zoning and Development

### Section 12-501 STATUTORY AUTHORIZATION

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

### Section 12-502 FINDINGS OF FACT

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

### Section 12-503 STATEMENT OF PURPOSE

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

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

## Planning, Zoning and Development

### Section 12-504 METHODS OF REDUCING FLOOD LOSSES

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

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

### Section 12-505 DEFINITIONS

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

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

"Area of special flood hazard" - is the land in the floodplain within the City of Coweta 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.

## Planning, Zoning and Development

"CFR" - means Code of Federal Regulations.

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

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

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

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

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

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

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

"FEMA" means the Federal Emergency Management Agency.

"FIRM" means Flood Insurance Rate Map.

## Planning, Zoning and Development

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

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

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

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

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

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

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

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

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

## Planning, Zoning and Development

"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.

## Planning, Zoning and Development

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

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

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

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

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

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

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

## Planning, Zoning and Development

"OWRB" – means the Oklahoma Water Resources Board.

"Recreational vehicle" - means a vehicle which is:

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

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

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

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



## Planning, Zoning and Development

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

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

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

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

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

### Section 12-506 LANDS TO WHICH THIS ORDINANCE APPLIES

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

### Section 12-507 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 Wagoner County, Oklahoma and Incorporated Areas" dated April 17 2012, with the accompanying Flood Insurance Rate Map (FIRM) are hereby adopted on April 17 2012, by reference and declared to be a part of this ordinance. However, until this date the current effective FIRM Flood Insurance Rate Map City of Coweta Oklahoma Wagoner County dated September 18 1986, shall be used for this purpose until April 17 2012.

## Planning, Zoning and Development

### Section 12-508 ESTABLISHMENT OF DEVELOPMENT PERMIT

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

### Section 12-509 COMPLIANCE

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

### Section 12-510 ABROGATION AND GREATER RESTRICTIONS

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

### Section 12-511 INTERPRETATION

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

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

### Section 12-512 WARNING AND DISCLAIMER OR LIABILITY

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

### Section 12-513 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Council of the City of Coweta designates the City Manager or his/her designee as the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of National Flood Insurance Program regulations in Title 44 CFR pertaining to floodplain management.

## Planning, Zoning and Development

### Section 12-514 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 this ordinance.
4. Review proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval are required.
5. Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
6. Notify, in riverine situations, adjacent communities and the OWRB prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. Shall require the developer/applicant to determine and provide the base flood elevation on a FEMA Elevation Certificate as well as other data as required in order to administer the provisions of Article V.
9. When a floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE as delineated on the Wagoner County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Coweta.

## Planning, Zoning and Development

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

### Section 12-515 PERMIT PROCEDURES

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

## Planning, Zoning and Development

- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- j. The relationship of the proposed use to the comprehensive plan for that area.

3. The Floodplain Administrator or City Council, as applicable, may approve certain development in Zones A or AE delineated on the Wagoner 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 12-516 VARIANCES

#### 1. General provisions.

- a. The City Council of the City of Coweta may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or this ordinance, if the applicant for the variance presents adequate proof that (i) compliance with this ordinance will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent provisions of this Section D. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards.
- b. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.
- c. In no case shall variances be effective for a period longer than twenty (20) years.
- d. Any person seeking a variance shall file a petition with the City Council, accompanied by a filing fee of Twenty-five Dollars (\$25.00).
- e. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) and provisions of Section D of this Article IV have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

## Planning, Zoning and Development

- f. Any person seeking a variance to build a structure below the base flood elevation will be issued a notice signed by the Mayor of the Coweta City Council which states that (i) the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation, and (ii) such construction below the base flood level increases risks to life and property.
- g. At such time as the City Council deems the petition ready for notification to the public, the City Council shall schedule a hearing and direct the applicant to publish notice thereof in a newspaper of general circulation in Wagoner County at least thirty (30) days prior to the hearing.
- h. The City Council shall conduct the hearing and make determinations in accordance with the applicable provisions of this Section D. The City Council shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted.
- i. Variances shall only be issued upon:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances; and
  - (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- j. Upon consideration of the factors stated in this Section D and the intent of this ordinance, the City Council may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in Article I, Section C of this ordinance.
- k. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance; and a copy of any variance issued by the City Council shall be sent by the Floodplain Administrator to the OWRB and FEMA within fifteen (15) days after issuance of the variance.

## Planning, Zoning and Development

### 2. Special provisions

- a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- c. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- d. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (1) The criteria of Section D(1)(e); Section D(1)(i); Section D(2)(b); and Section D(2)(c) of this Article IV are met, and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

### Section 12-517 GENERAL STANDARDS

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

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

## Planning, Zoning and Development

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding

### Section 12-518 SPECIFIC STANDARDS

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

1. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.
2. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at least one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.
3. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:



## Planning, Zoning and Development

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

4. **Manufactured Homes** - Require that all manufactured homes to be placed anywhere within the community in Flood Zones A and/or AE on the Wagoner FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I-beam elevated at least one (1) foot above the base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to a permanent foundation to resist flotation, collapse, or lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

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

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

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

- (a) The structure shall be unfinished on the interior;
- (b) The structure shall be used only for parking and limited storage;
- (c) The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;
- (d) Service facilities such as electrical and heating equipment must be elevated to or above the BFE;

## Planning, Zoning and Development

- (e) The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (f) The structure shall be designed to have low flood damage potential and constructed with flood resistance materials;
- (g) The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;
- (h) Floodway requirements must be met in the construction of the structure;
- (i) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and
- (j) The structure shall be located so as not to cause damage to adjacent and nearby structures.

### Section 12-519 STANDARDS FOR SUBDIVISIONS

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

### Section 12-520 FLOODWAYS

The following provisions shall apply to floodways:

1. Encroachments, including but not limited to fill, new construction, substantial improvements and other development are prohibited within the adopted floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the City of Coweta during the occurrence of the base flood discharge.
2. If Article V, Section D.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.

## Planning, Zoning and Development

3. The City of Coweta 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 12-521 SEVERABILITY

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

### Section 12-522 FLOODPLAIN MANAGEMENT FEE SCHEDULE

The City of Coweta City Council establishes a fee schedule for the following services by separate instrument (see latest fee schedule adopted by Coweta City Council):

- a. Notice of Intent Fee
- b. Floodplain Development Permit Application Review
- c. Floodplain Development Permit Fee
- d. Inspection Fee-per inspection.

### Section 12-523 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. A structure or other development without the elevation certificate or other certifications required in this ordinance is presumed to be in violation until such time as that documentation is provided. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined a fee set forth by the Coweta City Council, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council of the City of Coweta or its City Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

## Planning Zoning and Development

SECTION 2. It is hereby found and declared by the City Council of the City of Coweta that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

SECTION 3. Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval. However, the special flood hazards that are described in the current Flood Map for City of Coweta, dated September 18 1986, shall continue to be used until April 17, 2012, and on and after that date, the April 17, 2012, Flood Insurance Study and Flood Insurance Rate Map for Wagoner County and Incorporated Areas shall apply to this ordinance and shall supersede any previous floodplain management ordinance applicable to the City of Coweta.

### Section 12-525 STORM WATER DISCHARGE

1. Scope
2. Definitions and Abbreviations
3. Discharge Requirements
4. Spills
5. Pavement Wash Waters
6. Watercourse Protection
7. Prohibition of Illicit Connection
8. Construction Activities
9. Record Keeping
10. Reporting Requirements
11. Compliance Monitoring Requirements
12. Requirements for Best Management Practices
13. Inspections and Sampling
14. Administrative Enforcement Remedies
15. Violations, Injunction and Criminal Prosecution
16. Confidential Information

## Planning, Zoning and Development

### 1. SCOPE

This Ordinance establishes methods to regulate the introduction of pollutants to the City of Coweta's municipal separate storm sewer system and enables the City to comply with all applicable state and federal laws and regulations, including the Federal *Clean Water Act*, 33 U.S.C. §§ 1251, *et seq.*, the *Oklahoma Environmental Quality Act*, 27A O.S.2001, §§ 1-1-101, *et seq.*, and stormwater contained in 40 CPR Part 122, *EPA Administered Permit Programs: the National Pollutant Discharge Elimination System* (NPDES). The objectives of this Ordinance shall permit the City of Coweta to:

- A. Regulate the contribution of pollutants into the municipal separate storm sewer system through the stormwater discharges of any user;
- B. Control the introduction into the municipal separate storm sewer system of spills, dumping, or the disposal of materials other than stormwater;
- C. Prohibit illicit discharges into the municipal separate storm sewer system
- D. Carry out inspections, surveillance and monitoring procedures necessary to determine compliance and noncompliance with this ordinance; and
- E. Comply with its OPDES Municipal Storm Water Discharge Permit conditions and any other federal or state law or regulation pertaining to stormwater quality.

### SECTION 2. DEFINITIONS AND ABBREVIATIONS

1. As used in this chapter, the following terms, phrases and words shall have the meanings given below:

**Act or "the Act"** shall mean the *Federal Water Pollution Control Act*, also known as the *Clean Water Act*, as amended, 33 U.S.C. §§ 1251, *et seq.*

**Administrative Officer** shall mean the mayor or other person so designated by the Mayor.

**Best Management Practice or BMP** shall mean the best available practices or devices that, when used singly or in combination, eliminate or reduce the contamination of surface waters, ground waters, or both. BMPs shall be divided into the following categories:

## Planning, Zoning and Development

A. **Nonstructural Best Management Practices**, which shall mean those which require modified or additional operational or behavior practices, such as sweeping a parking lot or having spill response equipment on site; and

B. **Structural Best Management Practices**, which shall mean those which require the construction of a structure or other physical modification on the site.

**City** shall mean the City of Coweta Oklahoma, a municipal corporation, and its duly authorized officers, agents and employees.

**Composite Sample** shall mean a sample of stormwater run-off, resulting from the combination of individual samples taken at selected intervals, based on an increment of either flow or time.

**Discharge** shall mean any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

**Environmental Protection Agency or EPA** shall mean the United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of the EPA.

**Floatable** shall mean any buoyant or semi-buoyant, organic or inorganic, water-borne waste material such as litter, paper, Styrofoam, grass, leaf litter, cigarette butts and other debris.

**Garbage** shall mean trash, with reference to collections of pollutants at floatable collection sites.

**Grab Sample** shall mean a sample of stormwater run-off which is taken on a one-time basis, without regard to the flow and consideration of time.

**Illicit Discharge** shall mean any intentional discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of stormwater, except discharges pursuant to Subsection IV of this chapter, or discharges resulting from fire fighting activities.

**Industrial Activity** shall mean any activity which is directly related to manufacturing, processing or raw materials storage areas at an industrial facility. The term includes, but is not limited to, industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the industrial facility; sites where material handling activities are performed; refuse sites; sites used for the applications or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage or disposal; shipping and receiving areas; manufacturing buildings; storage areas, including tank farms, for raw materials, and intermediate and finished products.

## Planning, Zoning and Development

**Industrial Facility or Industry** shall mean any premises whose function is classified in the latest edition of the *Standard Industrial Classification Manual*, also known as the SIC code manual, prepared by the Executive Office of the President, Office of Management and Budget.

**Material Handling Activities** shall mean the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product.

**Monitoring** shall mean the performance of stormwater flow measurements, stormwater sampling, sample analysis, and like procedures necessary to determine compliance with stormwater discharge activity.

**Municipal Separate Storm Sewer System or MS4** shall mean a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains that are owned or operated by the City and are designed or used for collecting or conveying stormwater.

**OPDES Storm Water Discharge Permit** shall mean the most current “Multi-Sector General Permit for Storm Water Discharge Associated with Industrial Activities for the State of Oklahoma,” or the most Current “General Permit for Storm Water Discharge Associates with Construction Activities within the State of Oklahoma,” with provisions under the Oklahoma Administrative Code (OAC), § 252:606, incorporating by reference 40 CFR Part 122.26, as issued by the Oklahoma Department of Environmental Quality (ODEQ).

**Outfall** shall mean a **point source** as defined in this chapter from which pollutants are or may be discharged, or as defined in 27 A O.S. 2001 as amended §§ 1-1-101, *et seq.*

**Person** shall mean an individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their lawful representatives, agents or assignees. This definition shall include all federal, state, and local governments.

**Point Source** shall mean any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

## Planning, Zoning and Development

**Pollutant** shall mean any dredge spoil, solid waste, incinerator residue, oil, grease, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agriculture waste, industrial waste, municipal waste and the characteristics of the wastewater including but not limited to, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor.

**Premises** shall mean any plot or tract of ground, regardless of size or plat, owned by a person or used by a person and any contiguous plots.

**Significant Materials** shall mean any raw materials, fuels, materials such as solvents, detergents, and plastic pellets, finished materials such as metallic products, raw materials used in food processing or production, and/or hazardous substances.

**Spills** shall mean any release that has negatively or has the potential to negatively impact the quality of water within, or discharges from the City's municipal separate storm sewer system (MS4) or causes damaging or deleterious effects to the City's MS4, including all structures or appurtenances, or creates any violation of this chapter.

**Stormwater** shall mean any rainwater run-off, surface run-off, and drainage related to storm events or snow melt.

**Stormwater Discharge Associated with Industrial Activity** shall mean stormwater from areas of industrial activity or areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater.

**User** shall mean any source of direct or indirect discharge into the City's municipal separate storm sewer system (MS4).

2. As used in this chapter the following abbreviations shall have the meanings given below:

BAT - Best Available Technology

BMP - Best Management Practices

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - United States Environmental Protection Agency



## Planning, Zoning and Development

- Gpd - Gallons per Day
- L - Liter
- Mg - Milligrams
- mg/L - Milligrams per Liter
- MS4 - Municipal Separate Storm Sewer System
- OAC - Oklahoma Administrative Code
- NOI - Notice of Intent
- NOV - Notice of Violation
- NPDES- National Pollutant Discharge Elimination System
- ODEQ - Oklahoma Department of Environmental Quality
- OPDES- Oklahoma pollutant Discharge Elimination Discharge System  
Oklahoma Administrative Code (*OAC*), Title 252, Chapter 606, §§  
252:606-1-1 et seq., as amended)
- POTW- Publicly Owned Treatment Works
- RCRA- Resource Conservation and Recovery Act of 1976 (Pub.L. 94-580,  
Oct. 21, 1976, 90 Stat. 2795, as amended)
- RQ - Reportable Quantities
- SARA - Superfund Amendments and Reauthorization Act of 1986 (Pub.L.  
99-499, Oct. 17, 1986, 100 Stat. 1613, as amended)
- SWDA- Solid Waste Disposal Act (Pub.L. 89-272, Title II, Oct. 20, 1965,  
79 Stat. 997, 42 U.S.C. §§ 6901, *et seq...* as amended)
- TSD - Treatment, Storage, and Disposal Facilities
- TSS - Total Suspended Solids
- USC - United States Code

SECTION 3. DISCHARGE REQUIREMENTS

1. Allowable Discharges

The following types of discharges “shall not be prohibited discharges unless “the Administrative Officer determines that the type of discharge, whether singly or in combination with others, causes contamination of surface water, stormwater or groundwater; causes overload or damage to the MS4 or has the potential to endanger public health and safety; or causes the City to violate its OPDES Municipal Storm Water Discharge Permit:

- a. Water line flushing
- b. Landscape irrigation
- c. Diverted stream flows
- d. Rising ground waters
- e. Residential building wash water without detergents
- f. Uncontaminated pumped ground water
- g. Uncontaminated ground water infiltration
- h. Discharges from potable water sources
  1. Foundation drains
- j. Air conditioning condensate
- k. Irrigation water
- l. Springs
- m. Water from crawl space pumps
- n. Footing drains
- o. Lawn watering
- p. Individual residential car washing
- q. De-chlorinated swimming pool discharges
- r. Street wash water
- s. Fire hydrant flushings
- t. Non-commercial or charity car washes
- u. Discharges from riparian areas and wetlands
- v. Discharges in compliance with a separate Oklahoma Pollutant Discharge Elimination System (OPDES) or National Pollutant Discharge Elimination System (NPDES) NPDES Permit.
- w. Discharges or flows from emergency fire fighting activities provided that the Incident Commander, Fire Chief or other on-scene fire fighting official in charge makes an evaluation regarding potential releases of pollutants from the scene and summons the hazardous material team if pollutants are suspected. Discharges or flows from fire fighting training activities are not authorized by OKR04 as allowable discharges.

## Planning, Zoning and Development

2. Dye testing shall be an allowable discharge, but shall require verbal notification to the Administrative Officer prior to testing. The City shall be exempt from this notification requirement.

3. Any discharge that has a current NPDES discharge permit with the EPA or has a current OPDES discharge permit with the ODEQ shall be an allowable discharge, with the following exceptions:

a. A discharge that results in the City violating its OPDES Municipal Storm Water Discharge Permit;

b. A discharge the Administrative Officer determines causes contamination of surface water, stormwater or groundwater within the City; or

c. A discharge that could block or damage the MS4.

4 Stormwater that is associated with and/or intermingled with stormwater from an industrial activity that is allowed under an industrial "NPDES Stormwater Discharge Permit" as defined in 40 CFR Part 122, is an allowable discharge

5. Any stormwater that is associated with industrial activity and has had pollutants removed by structural or nonstructural BMPs to a level considered satisfactory by the Administrative Officer is an allowable discharge.

### 2. Prohibited Discharges

1. It shall be unlawful and a misdemeanor offense to discharge or allow the discharge of any of the following into the City's MS4:

a. All non-stormwater except those classified as an allowable discharge in Subsection III of this ordinance;

b. Any stormwater from any activity required to obtain an "NPDES Storm Water Discharge Permit" as defined in 40 CFR Part 122.26(b) (14), unless the discharge is authorized by a valid "NPDES Storm Water Discharge Permit";

c. Any spilled pollutants, unless it can be demonstrated that failure to allow the discharge will result in a greater imminent peril or hazard to the life, health, welfare, or safety of the public; or

d. Any material that is disposed of or dumped in such a manner that causes pollutants to be discharged.

2. It is a violation of this ordinance for any person to place, store or locate any material in such a manner that causes pollutants to be transported by wind, rain or other atmospheric conditions into the City's MS4.

## Planning, Zoning and Development

3. Any point source discharge into the City's MS4 that either singly or in conjunction with other discharges causes the City to violate its OPDES Municipal Storm Water Discharge Permit shall be prohibited.
4. It shall be unlawful and a misdemeanor offense for any person to dispose of grass, dirt, leaves, trash or other pollutants into the City's MS4.
5. Allow an animal to defecate (without the owner, keeper or harbinger removing the excreta deposited) on public or private property other than that of the owner.
- 6 No person shall deposit, drain or divert, whether directly or through an agent, into or upon any public highway, street, sidewalk, alley, parking lot, paving, drainage ditch, storm drain sewer, gutter creek, stream, river, lake, pond or lagoon, any oil or oily liquid with petroleum content, grease, water, or any mud, rotary mud, sand, salt water, sewer waste or industrial waste; or in any manner permit by seepage, overflow, or otherwise, any of such substances to escape from any property owned, lease or controlled by such person nor shall any person allow such substances to flow or be carried upon any public highway, street, sidewalk, alley, parking lot, paving, drainage ditch, storm drain, sewer, gutter, creek, stream, river, pond or lagoon within the city.
7. Any illicit discharge, except those allowable pursuant to Subsection A-I of this ordinance, shall be prohibited.

### SECTION 4. SPILLS

Spills that have the potential to enter or have entered the City's MS4 shall be contained, and remediation activity shall be commenced, as soon as possible. Any person identified as the source of any spill into the City's MS4 shall be required to remediate, remove and properly dispose of spilled materials. Remediation activities shall only be considered complete when the clean-up is deemed satisfactory by the Administrative Officer. The required reporting or notification for such spills shall be completed as specified in Subsection X of this ordinance.

### SECTION 5. PAVEMENT WASH WATERS

Discharges to the City's MS4, resulting from the cleaning of driveways, parking lots, and other paved surfaces shall be deemed allowable upon the fulfillment of the following requirements:

1. The person conducting the cleaning shall employ BMPs, including but not limited to absorbent materials, which prevent the discharge of pollutants into the City's storm sewer;

## Planning, Zoning and Development

2. Prior to any washing, floatables shall be removed from the surface that is about to be cleaned.
3. The discharge shall not result in a violation of the City's OPDES Municipal Storm Water Discharge Permit; and
4. The discharge, based upon the determination of the Administrative Officer, shall not cause contamination of surface water, stormwater or groundwater within the City.

### SECTION 6. WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate~ or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures adjacent to the watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

### SECTION 7. PROHIBITION OF ILLICIT CONNECTIONS

1. The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
2. A person is in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### SECTION 8. CONSTRUCTION ACTIVITIES

1. All construction activities, including the development, excavation, grading, regrading, paving, landfilling, burning, and diking of land shall be conducted in such a manner as to minimize erosion and prevent the discharge of pollutants, including but not limited to rock, sand, and soil into the City's MS4. Persons conducting the construction shall implement and maintain adequate structural and/or nonstructural BMPs for controlling the discharge of pollutants. In the case of ten (10) acres or more draining to one discharge point, a sediment basin or adequate alternate measures shall be implemented.

## Planning, Zoning and Development

The adequacy of any BMP shall be based upon the fulfillment of the following requirements:

- a. The discharge shall not result in a violation of the City's OPDES Municipal Storm Water Discharge Permit;
  - b. The discharge, based upon the determination of the Administrative Officer, shall not cause contamination of surface water, stormwater or groundwater within the City; and
  - c. The discharge, based upon the determination of the Administrative Officer, does not transport sediment into the City's MS4.
2. Responsible Person
- A. Any person with overall responsibility for the construction, such as the general contractor, shall be jointly responsible with the person at whose direction the construction is conducted; for the purpose of compliance with this ordinance,
  - B. If construction on a particular site requires that a "Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity under the OPDES General Permit" be filed with the Oklahoma Department of Environmental Quality (ODEQ), then the Facility Operator listed on the notice shall be responsible for compliance with this ordinance.
3. Erosion Control
- a. Erosion control shall be provided during the construction phase on all construction sites as necessary to prevent impacts to offsite areas and/or public rights-of-way. The primary goal of erosion control and best management practices is to minimize erosion and sedimentation during construction activities until final grading, landscaping and storm sewer structures are in place. Best management practices include but are not limited to seeding, laying sod, sprigging, silt fences, straw bale dikes, earth dikes or swales, temporary stream crossings, storm sewer inlet protection, temporary sediment basins and stabilized construction entrances.
  - b. Failure to provide sediment and erosion control protection can result in suspension of building permits. A violation of this Section by failure to comply with any of its requirements shall constitute an offense and any person or entity convicted thereof shall be punishable as set forth in the Coweta City Code. Provided, that each lot upon which such violation occurs shall constitute a separate offense; and each day on which a violation occurs or is allowed to remain shall constitute a separate offense. The imposition of criminal sanctions, pursuant to Section XIII, shall not prevent the City of Coweta from taking any lawful action as is necessary to prevent or remedy a violation.

## Planning, Zoning and Development

c. Construction sites shall adhere to the standards set in the City of Coweta Subdivision Regulations and Design Criteria for Stormwater, Erosion Control, Streets, Water, and Sewers.

4. Allowing construction materials to spill onto public ways. No person shall place, spill or allow the flow of concrete or similar construction materials on any public road, alley, highway or sidewalk, except as may be required for the construction or the maintenance of the public road, street, highway or sidewalk

5. Construction debris

a. Construction debris shall be contained in a manner that the debris cannot be carried offsite by wind.

b. Trash containers of sufficient size shall be located on each construction site no later than the time the rough plumbing is ready for inspection and adequately maintained throughout active construction.

### SECTION 9. RECORD KEEPING

1. **Duration.** Every person and industry shall retain and make available to the Administrative Officer for inspection and copying, all records and information required to be retained under this ordinance, or order issued hereunder. The person or industry shall retain these records for a period of no less than five (5) years after an initial request by the Administrative Officer. This retention period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industry or person has been specifically notified of a longer retention period by the Administrative Officer.
2. **Fraud and False Statements.** Reports and other documents required to be submitted or maintained under this ordinance, or order issued hereunder, shall be subject to the provisions of 18 U.S.C. § 1001, regarding fraud or false statements and the provisions of § 309c(4) of the Act, as amended, governing false statements, representations, or certification.

## Planning, Zoning and Development

### SECTION 10. REPORTING REQUIREMENTS

1. **Submission of Correspondence.** Any industry that performs an industrial activity that is required by 40 CFR Part 122.26 to obtain an "NPDES Storm Water Discharge Permit" from the EPA must submit a copy of that application and permit, as well as any written correspondence with any federal, state or local agency regarding the aforementioned permit, to the Administrative Officer within fifteen (15) days of request. For construction sites, Section 3 of the City of Coweta Design Criteria for Stormwater, Erosion Control, Streets, Water, and Sewer requires submission of the Storm Water Pollution Prevention Plan, Notice of Intent for Storm Water Discharges, and Authorizations for Stormwater Discharges to be submitted to the City prior to the start of construction.

2. **Availability.** Any permits, pollution prevention plans, or other documents regarding an industry's or construction site's OPDES Storm Water Discharge Permit shall be made available to the Administrative Officer upon request.

3. **Spills.** Any person or industry shall, at the earliest possible time but, in any case, no later than one (1) hour from discovery, orally report to the Administrative Officer a spill, release, dumping, or other situation that has contributed or is likely to contribute pollutants into the MS4. This notification shall include the location, type, concentration and volume, if known, and corrective actions taken for each spill, release, etc. Written notification shall also be made to the Stormwater Department of the City within five (5) days of the discovery of the spill. If the spill is contained, notification to the Administrative Officer shall be next business day. This notification shall include all the notification requirements specified within this section. These reporting requirements shall be in addition to and not in lieu of any other reporting requirements imposed under, federal, state and local laws or regulations.

4. All persons or industrial facilities may be required to provide other reports deemed necessary by the Administrative Officer to monitor, maintain and ensure compliance with this ordinance.

### SECTION 11. COMPLIANCE MONITORING REQUIREMENTS

1. **Stormwater Sampling Event Criteria.** For purpose of routine sampling of storm events, the following criteria must be met:



## Planning, Zoning and Development

- a. The depth of the rainfall must be greater than one-tenth (0.1) inch or its equivalent;
  - b. The sample storm event must be preceded by at least seventy-two (72) hours of less than one-tenth (0.1) inch of rain fall; and
  - c. All outfalls from the premises or industry must be sampled, unless otherwise specified.
2. Sampling. When the Administrative Officer has reason to believe that any person or industrial facility is violating this ordinance, the person or industrial facility may be required to obtain either a grab or composite sample and analyze any discharge, stormwater, groundwater and/or sediment and provide a copy of the analysis to the Administrative Officer for review.
3. Illicit Discharge Sampling. When the Administrative Officer has cause to believe that any discharge is an illicit discharge, the Administrative Officer may obtain either a grab or composite sample and analyze the discharge. If it is determined that the discharge is an illicit discharge, then the Administrative Officer may fully recover all cost of the sampling and analysis from the person or industrial facility, including all reasonable and customary administrative costs. When the discharge is likely to contain illicit discharges on a recurring basis, the person or industrial facility may be required by the Administrative Officer to conduct monitoring activities at its expense. This may be in addition to monitoring activities performed by the City.
4. Chain-of-Custody. Upon completion of sample collections and documentation, a written record of the Chain-of-Custody must be completed. The Chain-of-Custody record is an accurate step-by-step documentation of the sampling path from origin through analysis. It must contain the following information:
- a. Name of the person(s) collecting the sample;
  - b. Sample ID numbers;
  - c. Date and time of sample collection;
  - d. Location of sample collection;
  - e. Name(s) and signature(s) of all persons, in sequence of ownership, handling the sample in the field and in the laboratory; and
  - f. Type of preservation.

A copy of the Chain-of-Custody will remain with all sample analyses sent to the City of Coweta for review.

## Planning, Zoning and Development

5. Substitution of Substantially Identical Effluents. When a person or industry is required to sample a storm event and that person or industry has two or more point sources with substantially identical effluents, the person or industry may petition the Administrative Officer to allow the sampling of only one point source and report that the data apply to the substantially identical point source(s).

**Monitoring Methods.** Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified by the Administrative Officer.

### SECTION 12. REQUIREMENTS FOR BEST MANAGEMENT PRACTICES

1. **Implementation.** If the Administrative Officer determines that a stormwater discharge into the MS4 is, or has the potential of, contributing to water quality degradation, has potential to cause any violation of this ordinance or, causes a violation of the City's OPDES Municipal Storm Water Discharge Permit, one or more BMPs shall be implemented. The type and number of BMPs shall be addressed individually, with the initial implementation of nonstructural BMPs, followed by structural BMPs. The Administrative Officer may require additional BMPs to be implemented for any discharge from a commercial, residential and industrial source.

2. **Spill BMPs.** All persons and industrial facilities shall take measures to prevent spills or any other accidental introduction of pollutants into the MS4.

### SECTION 13. INSPECTIONS AND SAMPLING

1. **Right of Access.** The Administrative Officer bearing credentials, shall be permitted to gain access to such premises as may be necessary for the purpose of inspecting, observing, measuring, sampling and testing, as often as may be necessary, to determine compliance with the provisions of this ordinance.

2. **Inspections.** The Administrative Officer bearing credentials retains the right to perform inspections at any industrial facility or any other premises that discharges or has the potential to discharge stormwater into the MS4. Whenever an inspection of such premises is made, the findings shall be recorded and a copy of the inspection report made available to the owner or person in charge of such premises, after finalization of the inspection report.

SECTION 14. ADMINISTRATIVE ENFORCEMENT REMEDIES

The following enforcement provisions are intended to encourage compliance with this chapter.

1. Investigation. The Administrative Officer may investigate any premises where there is reason to believe that there may be a failure to comply with the requirements of this ordinance.

2. Notice of Violations. Whenever the Administrative Officer determines that a violation of this ordinance has occurred or is occurring, the Administrative Officer may issue a notice of violation (NOV) to the person or industry. This NOV shall include the nature of the violation and provide a reasonable time for correction. The Administrative Officer may require, within fifteen (15) days of the receipt of this NOV, an explanation of the violation and a plan for the satisfactory correction and prevention, including specific required actions. The explanation and plan shall be submitted by the violator to the Administrative Officer in writing. Submission of this plan shall in no way relieve the person or industry of liability for any violation(s) occurring before or after receipt of the NOV. Issuance of a NOV shall not preclude any other enforcement action.

3. Administrative Orders.

a. Consent Orders. The Administrative Officer is empowered to enter consent orders, assurances of voluntary compliance, or other similar documents establishing a consensus with any person or industry for noncompliance. Such an order shall include specific action to be taken by the violator to correct the noncompliance within a time period specified in the order. Consent orders shall be judicially enforceable.

b. Compliance Orders. When the Administrative Officer finds that a person or industry has violated or continues to violate this ordinance or orders issued hereunder, the Administrative Officer may issue an order to the violator directing that compliance be obtained within a specified time period. If compliance is not achieved within the time period, water service or sewer service, or both services may be discontinued, or a Stop Work Order issued, unless adequate BMPs or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements addressing noncompliance, including additional self-monitoring. A compliance order shall not extend the deadline for compliance established by a federal standard or requirement, nor shall a compliance order release the violator from liability for any violation, including any continuing violation. Issuance of a compliance order shall not preclude any other enforcement action.

## Planning, Zoning and Development

c. Cease and Desist Orders. When the Administrative Officer finds that a person or industry is violating provisions of this ordinance, or any order issued hereunder, or that past violations are likely to recur, the Administrative Officer may issue an order directing the violator to cease and desist all such violations or activities likely to cause a recurrence, and to:

1. Immediately comply with all requirements, and
2. Take such appropriate remedial or preventive actions as may be necessary to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

d. Issuance of a cease and desist order shall not preclude other action against the violator.

e. Administrative orders may be revised by the Administrative Officer at anytime in order to insure compliance with this ordinance.

### 4. Administrative Fines.

a. When the Administrative Officer finds that a user has violated or continues to violate any provision of the ordinance, or order issued hereunder, the Administrative Officer, upon good cause shown, may impose an administrative fine against such user in an amount not to exceed One Thousand Dollars (\$1,000.00). Such fines may be assessed on a per violation, per day basis.

b. Notice of an administrative fine shall be served personally on the user or by certified mail, return receipt requested. Payment of the fine shall be received by the Administrative Officer within fifteen (15) days after such notice is served.

c. Failure to submit payment for an administrative fine within fifteen (15) days shall be considered a violation of this ordinance, subject to penalties under Section XII and Section XIII of this ordinance.

d. Issuance of an administrative fine shall not preclude any other action against the user.

## Planning, Zoning and Development

### 5. Cost Recovery of Expenses Incurred for Violation of this Ordinance.

Notwithstanding any other provision of this ordinance, the Administrative Officer may require any person and or industry found to have violated any provision of this ordinance, or orders issued hereunder, to reimburse the City for any goods or services, including administrative costs, used to remove pollutants from the City's MS4, prevent further discharge of pollutants into the MS4, and shall become liable to the City for any expense, loss, or damages experienced by the City as a result of a violation.

### 6. Water Supply Severance.

Whenever a person has violated, or continues to violate any provision of this ordinance, or orders issued hereunder, water service may be severed. Service shall only recommence at the violator's expense, after the violator has satisfactorily demonstrated an ability to comply, and actual compliance.

### 7. Appeals.

Any person aggrieved by any NOV, administrative fine or order issued by the Administrative Officer pursuant to this Section may appeal the action as provided in this subsection.

1. The initiation of an appeal shall be in writing and filed with the Administrative Officer no later than fifteen (15) days after service of notice of the action appealed from. The written notice of appeal shall specify the action appealed, detail why the action is in error, and specify provision of ordinances or statutes supporting the person's appeal.

2. Upon receipt of a notice of appeal by the Administrative Officer, the Administrative Officer shall conduct any necessary investigation into the basis of the appeal and hold a hearing within thirty (30) days of receipt. However, upon review of the notice of appeal, if the Administrative Officer determines that the basis of the appeal is patently frivolous or filed only for purposes of delay, then the Administrative Officer may deny the appeal without a hearing. Upon the Administrative Officer's denial without a hearing, the appellant shall be notified in writing of the denial and the grounds for denial.

## Planning, Zoning and Development

3. At the conclusion of a hearing on an appeal, if the appeal is sustained in favor of the appellant, the Administrative Officer may modify or withdraw the notice, fine or order. If the Administrative Officer fails to act on the appeal within thirty (30) days of concluding the hearing, the appeal shall be deemed denied. Any ruling, requirements, decisions or actions of the Administrative Officer on appeal shall be final and binding, unless appealed to the City Council.

4. Any person aggrieved by an appeal decision of the Administrative Officer may perfect an appeal to the City Council by filing a written notice of appeal with the City Clerk and the Administrative Officer within fifteen (15) days from the date of the action by the Administrative Officer. Such notice shall specify grounds for the appeal. A hearing on the appeal shall be commenced by the Council no later than thirty (30) days from the date the notice of appeal was filed with the City Clerk. The City Council shall have jurisdiction to affirm, modify, reverse or remand the action of the Administrative Officer upon good cause shown. Any rulings, requirements, or decision of the Council shall be final and binding, provided that any right of appeal to the courts shall not be abrogated.

### SECTION 15. VIOLATIONS, INJUNCTION AND CRIMINAL PROSECUTION

#### 1. Injunctive Relief

Whenever a person or entity has violated or continues to violate the provisions of this ordinance, or orders issued hereunder, the Administrative Officer, with the advice and counsel of the City Attorney and the approval of the Administrative Officer, may petition the district court for the issuance of an injunction, which restrains or compels the activities on the part of the person or industry. A petition for injunctive relief shall not preclude any other action against a person or industrial facility.

#### 2. Criminal Prosecution

It shall be unlawful and a misdemeanor offense for any person to violate any of the provisions of this ordinance, or any order issued hereunder. Any person convicted of a violation of this ordinance, or any order issued pursuant to this ordinance, shall be guilty of a misdemeanor offense and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), excluding costs, fees and assessments, or by imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment. Each day, or portion thereof, during which a violation is committed, continued or permitted, shall be deemed a separate offense.

## Planning, Zoning and Development

### 3. Remedies Nonexclusive

- a. The provisions of Sections XIII A and B of this ordinance shall not be exclusive remedies. The City reserves the right to take any combination of actions against a violator of this ordinance. These actions may be taken concurrently.
- b. The City may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, administrative costs, and the cost of any actual damages incurred by the City.

### SECTION 16. CONFIDENTIAL INFORMATION

Information and data regarding a person, industrial facility or industrial activity obtained from reports, surveys, OPDES stormwater discharge permit applications or permits, monitoring programs, inspections and sampling activities may be available to the public in accordance with the Oklahoma Open Records Act, (51 O.S.2001, §§ 24.A.1, *et seq.*) or to other government agencies unless the industrial facility or industrial activity can demonstrate to the Administrative Officer's satisfaction that the release of such information would divulge information regarding trade secrets which is entitled to protection under applicable state law. If, in the opinion of the Administrative Officer, that information and data requested may disclose trade secrets or secret processes, then the information or data will not be made available.

Planning, Zoning and Development

CHAPTER 6

PUBLIC HEARING PROCESS FOR VARIOUS STATE OR FEDERAL PROGRAMS

- Section 12-601 Purpose for public hearings
- Section 12-602 Receipt of notice for hearing
- Section 12-603 Publication
- Section 12-604 Conduct of hearing
- Section 12-605 Recordation of hearing
- Section 12-606 Evidence
- Section 12-607 Findings of fact and final order by city council
- Section 12-608 Appeal
- Section 12-609 Hearings in other jurisdictions
- Section 12-610 Housing law compliance

SECTION 12-601 PURPOSE FOR PUBLIC HEARINGS

Under a variety of programs created and administered by various federal and state agencies, local government is authorized, and in some cases required, to hold public hearings in order to make certain determinations necessary for the operation of the program. These public hearings shall be conducted by the city in the following manner and specified procedures unless the applicable federal or state agency or the applicable program has a requirement which preempts this chapter. In the event of a partial preemption, this chapter shall control to the maximum extent possible. Examples of such hearings shall specifically include but are not limited to low income housing tax credit programs of the Internal Revenue Service of the United States, as administered by the Oklahoma Housing Finance Agency under Rule 330:36-5-3(e) and (g). (Ord 475, 12/4195)

SECTION 12-602 RECEIPT OF NOTICE FOR HEARING

- A. Upon receipt of notice by the city council, mayor or city manager, of a proposal which requires or authorizes the city to comment on or evaluate appropriateness of the proposal, or determine the existence of a need for a project within the city limits, the city council shall proceed to make a determination of the desirability, appropriateness and need for the specific proposal or project under the following procedures. The resulting findings shall be reduced to written comments and filed with the appropriate agency in a timely manner.



## Planning, Zoning and Development

- B. Upon receipt of notice from a state or federal agency of an application and the need for a public hearing under the City Code of Ordinances Section 2-222(A), the city manager shall promptly give notice to any private person or entity determined to be the contact person for the applicant in the federal or state program, giving specific notice of the date, time and place of a proposed hearing by the city council in consideration of the project or development. The notice shall be in writing and mailed by certified mail at a time calculated to provide the applicant or contact person at least ten (10) days notice of the hearing. The notice shall be effective at least ten (10) days prior to the date of the hearing regardless of the form of the notice.
- C. Notice to the contact person shall further provide the applicant's contact person with a statement of or reference to the appropriate legal authorities and the basis of jurisdiction under which the proceedings will be held, a statement of any statutes or rules involved, a copy 12-23 (1997 Supplement) of this chapter and a concise and plain statement of all issues of fact or law which are anticipated to be considered at the hearing. Such issues shall specifically include all issues or assertions to be made by the city staff or officials and any issues known by the city staff or elected officials which are anticipated to be raised by others.

### SECTION 12-603 PUBLICATION

The city manager shall cause to be published at least one time in a newspaper of general circulation within the city a notice of the date, time and place of the consideration of the proposed project or development, together with the statement of the purpose of the hearing and the location of the proposed development. The publication shall occur at least ten (10) days prior to the date of the public hearing. In addition, the city shall provide all property owners within a three hundred (300) foot radius of the proposed development with written notification at least ten (10) days prior to the date of the public hearing. The property owner shall be determined on the basis of the preceding years' tax rolls.

### SECTION 12-604 CONDUCT OF HEARING

- A. At the hearing before the city council, the applicant for the proposed development shall be allowed the opportunity to appear and present evidence, personally or through legal counsel, and to otherwise provide argument in support of the proposed development, including the right to respond to opposing evidence or argument through cross examination of opposing witnesses or otherwise.

## Planning, Zoning and Development

- B. At the conclusion of the applicant's evidence, other witnesses who are unconnected with the applicant may appear to present evidence or argument in opposition to the positions asserted by other witnesses. To expedite this process, the city council shall provide an opportunity for the persons or entities desiring to participate in the hearing process to be identified at the start of this hearing.

### SECTION 12-605 RECORDATION OF HEARING

The proceedings shall be electronically recorded in accordance with the requirements of Oklahoma Open Meetings Act and made available in accordance with the requirements of the Oklahoma Open Records Act. Should the applicant, the protestant or other participant require transcription, either through clerical transcription or by licensed court reporter, the cost of such transcription shall be paid by the requesting party.

### SECTION 12-606 EVIDENCE

Copies of documentary evidence proposed to be used by the applicant, by city staff or by protestants and which evidence is in the possession of the city, shall be exchanged with the applicant and protestants who identify themselves at least two (2) business days prior to the hearing. In the event additional documentary evidence is offered at the hearing, and the interest of justice requires admission of such evidence, the city council may grant a recess or otherwise continue the hearing to a date certain in order to allow a response, subject to the right of the opponent of such evidence to waive this right of delay.

### SECTION 12-607 FINDINGS OF FACT AND FINAL ORDER BY CITY COUNCIL

At the conclusion of the evidence, the city council shall deliberate and announce its findings of fact and conclusions of law as determined by a majority vote of the city council's total membership. The city staff shall prepare a written determination of those findings of fact and conclusions of law, which will thereafter be formally submitted for adoption by the city council, and upon adoption shall be transmitted by certified mail to the applicant, to any persons who formally protested in the hearing, and to the federal or state agency administering the program in question. A copy of this chapter shall be included with this determination. Once adopted by the city council, the determination shall be considered a final order by the city.

## Planning, Zoning and Development

### SECTION 12-608 APPEAL

While the city cannot create jurisdiction within the district courts of the state, it is the city's understanding of applicable law that such a determination by the council is subject to appeal to the district courts by the filing of a declaratory judgment action in the district court having jurisdiction of the city's corporate headquarters, regardless of the location of the land on which the proposal was to be built. The city's staff shall expeditiously forward a record of the proceeding to the district court upon the filing of any such declaratory judgment action and then shall defend the action taken by the city council.

### SECTION 12-609 HEARINGS IN OTHER JURISDICTIONS

Upon receipt of notice from a state or federal agency of an application concerning a project in another jurisdiction, the city manager or a designee may determine if any interests of the city will be impacted, and may participate in such hearings as appropriate to defend such city interests as may be determined to exist.

### SECTION 12-610 HOUSING LAW COMPLIANCE

It is not the intent or purpose of this chapter to circumvent any fair housing laws or regulations, but instead to ensure complete compliance with all local, state and federal laws concerning housing and to ensure that housing is provided in a nondiscriminatory manner.

Planning, Zoning and Development

CHAPTER 7

CREATING DOWNTOWN ADVISORY BOARD

- Section 12-701 Downtown Advisory Board
- Section 12-702 Board of Directors, Term, Removal
- Section 12-703 Officers, Rules
- Section 12-704 Meetings
- Section 12-705 Duties, Powers, and Scope

SECTION 12-701 DOWNTOWN ADVISORY BOARD

There is hereby created a Downtown Advisory Board which shall be known as the Downtown Advisory Board of the City of Coweta, Oklahoma.

SECTION 12-702 BOARD OF DIRECTORS, TERM, REMOVAL

- A. The physical, social and cultural growth and redevelopment of the downtown area shall be overseen and directed by a Board of Directors consisting of seven (7) members. Board members shall be selected from among persons residing, employed or owning structures in the downtown area with reference to their fitness for such office by the Mayor and City Council. All Downtown Advisory Board Directors shall serve thereon without compensation.
- B. The Board Members shall hold office for a term of three years from the first day of May following their appointment. At the first regular meeting of the Board, the Directors shall cast lots for respective terms of one year (three members), two years (two members and three years (two members). Vacancies in the Downtown Advisory Board of Directors shall be filled in the same manner as the original appointment.
- C. Any member of the Board of Directors may be removed by the appointing authority for misconduct or neglect of duty.

SECTION 12-703 OFFICERS, RULES

Immediately after the initial appointment, the Board of Directors shall meet and organize by electing one (1) director as Chairman, one (1) director as vice-chairman, one (1) director as secretary, and by electing such other officers as the Board may deem necessary. They shall adopt such rules and regulations for their own guidance and for the governance and oversight of the downtown area as may be expedient and not inconsistent with the ordinances of the City and laws of the State, subject to the approval of the Mayor and Council of the City.

## Planning, Zoning and Development

### SECTION 12-704 MEETINGS

- A. The Downtown Advisory Board shall hold a regular monthly meeting. The members of the Board shall determine the time and place of such meetings. The City Manager, the Mayor, or any three (3) members of the Board may call a special meeting.

The meetings shall be open to the public with proper notice given as required by the Oklahoma Open Meeting Act.

### SECTION 12-705 DUTIES, POWERS, AND SCOPE

- A. The Downtown Advisory Board shall act as an advisory board to the Planning Commission, the City Manager and the City Council concerning physical, social and cultural growth and redevelopment in the downtown area.
- B. The boundaries of the Board's jurisdiction (the "downtown area") shall be as follows. The north side of lots abutting North Street (141<sup>st</sup>) in the north, the south side of lots abutting South Street (151<sup>st</sup>/Hwy 51B) in the south, the east side of lots abutting Ave G in the east and west side of lots abutting Bixby Street in the west.
- C. The Downtown Advisory Board shall make recommendation to the City Manager and the City Council on physical, social and cultural growth and redevelopment issues in the downtown area as follows:
1. The relationships between residential, commercial, office and institutional uses in the downtown area.
  2. The physical character of the commercial corridor.
  3. The acceptable intensity of residential development and redevelopment in the downtown area.
  4. Development standards for downtown uses.
  5. Priorities for revitalization.
  6. Vehicular and pedestrian circulation in the downtown area.
  7. Such other recommendations as the Downtown Advisory Board deems appropriate.

Planning, Zoning and Development

- D. The Secretary of the Downtown Advisory Board shall provide copies of the minutes of meetings to the office of the City Clerk within ten (10) days from the date of their approval.

## Planning, Zoning and Development

### CHAPTER 8

#### SPECIFIC USE PERMITS

- Section 12-801 Purpose
- Section 12-802 Conditions for Approval
- Section 12-803 Specific Use List
- Section 12-804 Use Conditions
- Section 12-805 Administration

#### SECTION 12-801 PURPOSES

The City Council may, after a public hearing and recommendation by the Planning Commission and after conducting a public hearing as is required in accordance with the provisions of this section, authorize for specific parcels of land, the issuance of a Specific Use Permit.

The uses listed in the Specific Use list are so clarified because of the size of the land they require or the specialized nature of the use, or they may more intensely dominate the area in which they are located or their effects on the general public are broader in scope than other types of uses permitted in the district.

The designation of a Specific Use Permit as possible on the Specific Use List does not constitute an authorization or an assurance that such use will be permitted. Rather, each Specific Use Permit application shall be valued as to its probable effect on the adjacent property and community welfare and may be approved or denied as the findings indicate appropriate.

#### SECTION 12-802 CONDITIONS FOR APPROVAL

##### A. Plans and Data to be Submitted

Prior to submission of a request for a Specific Use Permit, the City Planner may require one or more pre-application conferences with the potential applicant. In considering and determining its recommendation to the City Council relative to any application for a Specific Use Permit, the Planning Commission will establish the requirements necessary for consideration of the application. The Commission shall also set a deposit amount from the applicant sufficient for payment of the application and permit expenses. The requirements and amount of deposit may be adjusted by the Planning Commission as necessary during the application process. The Planning Commission may require that the applicant furnish preliminary site plans and data concerning the operation, location, function and characteristics of any use of land or building proposed. For uses in which the land use has possible environmental impact, the Commission may require those engineering and/or environmental impact studies necessary for evaluation of the proposed use.

## Planning, Zoning and Development

### B. Planning Commission Requirements

The Planning Commission may recommend to the City Council that certain safeguards and conditions concerning bonding, insurance, setbacks, ingress and egress, off-street parking and loading arrangements and location or construction of buildings and uses and operation are required. If the Planning Commission fails to review and make a recommendation within 45 days from the date the application is accepted for processing, the City Council can take action on the application.

### C. City Council Requirements

The City Council may, in the interest of the public welfare and to assure compliance with the intent of this ordinance and the Coweta Comprehensive Plan, require such development standards and operational conditions and safeguards as are indicated to be important to the welfare and protection of adjacent property and the community as a whole and be compatible with the natural environment and the planned capacities of public services and facilities affected by the land use. This may include the requirement of having the property platted and/or the requirement of the dedication of sufficient right-of-way or easement as necessary to further the public good. The City Council may impose conditions including, but not limited to, bonding, insurance, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, lighting, noise levels, signage, landscaping, parking and loading, compatibility, and land use density as may be indicated depending upon the proposed use and its potential effect on adjacent areas or the community.

### D. Site Plans

A site plan (plot plan) setting forth the conditions specified may be required of the applicant and such plan when accepted shall be made a part of the permit issued for the specific use.

### E. Designation of Zoning Map

A Specific Use Permit approved under the provisions of this ordinance shall not be considered as an amendment to the zoning ordinance; however, the Specific Use Permit shall be noted on the zoning map as follows: SUP - (the number of the request for a Specific Use Permit). Any of the conditions contained in a Specific Use Permit approval shall be considered as conditions precedent to the granting of a building permit for the specific use provided for.



## Planning, Zoning and Development

### F. Time Limits for Implementation

If for any reason the approved specific use ceases operation for a period of two years, then the approval of said specific use shall be considered void and will require another public hearing review by the Planning Commission and City Council. This shall also apply to any approved specific use that does not begin operation within two years of approval. This voiding of approval shall not apply if orderly progress toward completion of construction is taking place. Uses existing before the adoption of the Specific Use Permit ordinance, including non-conforming uses and their incidental and accessory uses, must receive a Specific Use Permit before any expansion of the use is permitted.

### SECTION 12-803 SPECIFIC USE LIST

The following uses are allowed in all zoning districts by Specific Use permit as granted by the City Council:

- Adult Entertainment Establishments
- Bus Station
- Convict Pre-Release Center
- Governmental Services
- Detention Center Juvenile-Adult
- Mausoleum
- Airport - Heliport
- Cemetery
- Crematory
- Casinos
- Juvenile Delinquency Center
- Electric Generation Plant &/or Sub-Station
- Post Office
- Rifle and Skeet Range Gun Club
- Sanitary Landfill Sewer Disposal Facility
- Halfway House Commercial Theme Parks
- Refuse Transfer Station Recycling Center
- Golf Course Golf Driving Range
- Kennel Mini-Storage
- Fire Protection Facility Fire Station
- Churches College or University Hospital
- Library Nursing Homes
- Convalescent Homes Public Schools
- Trade Schools Museum
- Bed and Breakfast Inn

## Planning, Zoning and Development

Cultural or Heritage Centers Public or Private Attractions  
Transmitting Tower (excluding amateur radio tower)  
Water Treatment Facility and/or Water Storage Facility  
Private Schools with comprehensive education curriculum  
Offices use when located on a 40-acre or larger tract  
Industrial Uses requiring a minimum acreage requirement of 40 acres  
Mining and Mineral Processing  
Commercial Resort Facilities (Minimum acreage requirement of 40 acres)  
Mixed Use

### SECTION 12-804 USE CONDITIONS

Compliance with District and Use Unit Requirements Specific uses permitted shall comply with the most restrictive yard and height requirements of the district in which located and in addition shall comply with the requirements, especially for parking and loading, as required per the related use unit in the Coweta Zoning Code, except as may be modified by City Council as provided in Section 1704.022.

### SECTION 12-805 ADMINISTRATION

#### A. Filing of a Petition for Specific Use Permit

A petition for a Specific Use Permit may be filed with the Planning Commission by the owner(s) of the property concerned, by the duly authorized representative thereof, by the holder of an option to purchase the affected real estate or by the purchaser in a contract to purchase realty. Such petition shall be on a standard form furnished by the Planning Department of the City. All petitions for a Specific Use Permit shall be accompanied by a site plan of the proposed area showing the location of buildings, parking, and other pertinent data concerning the operation of the proposed use.

#### B. Fee for Petition

A one-hundred dollar (\$100.00) fee shall be required with the Specific Use Permit application and such other fee as the City Council may from time to time specify by resolution.

#### C. Notice of Hearing

Notice of the public hearing to consider a Specific Use Permit shall be mailed at least twenty (20) days before the public hearing held by the Planning Commission by mailing written notice by the secretary of the Planning Commission to all owners of property within a three hundred (300') radius of the exterior boundary of the subject property, or such additional notice deemed necessary by the Planning Commission..

## Planning, Zoning and Development

The notice shall contain:

1. The date, time and place of the public hearing.
2. The present zoning classification of the property and the nature of the Specific Use Permit.
3. The legal description of the property and street address or approximate location in the municipality.

### D. Appeals and Confirmation by City Council

An applicant, or any adversely affected person, may appeal a recommendation of denial by the Planning Commission to the City Council, within 10 days of the Planning Commission decision, by (a) completing a Notice of Appeal form that shall be available from the City Planner; and (b) paying an appeal fee in the amount of \$100.00, or such fee as set by council resolution. If an appeal is not timely filed, the recommendation of the Planning Commission shall be included on a council consent agenda for consideration, and may be removed from the consent agenda by council pursuant to council rules, whereupon the council may either accept the recommendation of the Planning Commission, reverse the recommendation of the Planning Commission, modify the decision of the Planning Commission, or remand the matter for further consideration by the Planning Commission. If an appeal is timely filed, the City Council shall establish a date specific for its decision and may affirm, reverse or remand the decision of the Planning Commission.

### E. Reapplication or Reconsideration of Mining and Quarrying, Mineral Products Processing

The City is not required to reconsider requests denied by the municipality related to mining and quarrying, or mineral products processing for the same site unless the municipality determines there has been a material change in the application. A mining application for any portion of a site previously denied by the City Council will be reviewed by the City Planner first to determine if there has been a material change in the application. A material change is a substantial change in the application as compared with prior applications such that it warrants consideration as a new application. The City Planner will establish the requirements necessary for consideration of the application. The City Planner shall also set a deposit amount from the applicant sufficient for payment of the application and permit expenses. The requirements and amount of deposit may be adjusted by the City Planner as necessary during the application process. The City Planner will notify the applicant of the decision. The determination of the City Planner may be appealed to the City Manager within fifteen (15) days of the rendering of the decision.

Planning, Zoning and Development

CHAPTER 9

FAIR HOUSING

- Section 12-901 Policy
- Section 12-902 Definitions
- Section 12-903 Unlawful Practice
- Section 12-904 Discrimination in the Sale or Rental of Housing
- Section 12-905 Discrimination in the Financing of Housing
- Section 12-906 Discrimination in the Provision of Brokerage Services
- Section 12-907 Exemption
- Section 12-908 Administration
- Section 12-909 Education and Conciliation
- Section 12-910 Enforcement
- Section 12-911 Investigation; Subpoenas; Giving of Evidence
- Section 12-912 Enforcement by Private Persons
- Section 12-913 Interference, coercion or Intimidation
- Section 12-914 Separability of Provision
- Section 12-915 Prevention of Intimidation in Fair Housing Cases
  
- Section 12-901 POLICY

It is the policy of the City of Coweta to provide, within constitutional limitations, for fair housing throughout the City.

Section 12-902 DEFINITIONS

- A. “Dwelling” means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- B. “Family” includes a single individual.
- C. “Person” includes one or more individuals, corporation, partnerships, associations, labor organizations, legal representative, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- D. “To rent” includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises, owned by the occupant.

## Planning, Zoning and Development

- E. “Discriminatory housing practice” means an act that is unlawful under Section 12-904, 12-905, or 12-906.

### Section 12-903 UNLAWFUL PRACTICE

Subject to the provision of 12-903(B) and Section 12-907, the prohibitions against discrimination in the sale or rental of housing set forth in Section III shall apply to:

- A. All dwellings except as exempted by subsection B.
- B. Nothing in Section 12-904 shall apply to:
1. Any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by the subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale of rental of, more than three such single-family houses at any one time; Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:
    - a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and,
    - b. Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of Section 12-904C of this ordinance. However nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

## Planning, Zoning and Development

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his/her residence.
- C. For the purpose of subsection B, a person shall be deemed to be in the business of selling or renting dwellings if:
1. He/she has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or
  2. He/she has, within the preceding twelve months, participated as an agent, other than in the sales of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of an dwelling or any interest therein, or
  3. He/she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

### Section 12-904 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

As made applicable by section 12-903 and except as exempted by Section 12-903B and 12-908, it shall be unlawful:

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny dwelling to any person because of race, sex, color, religion, national origin, handicap, or familial status.
- B. To discriminate against any person in the terms, condition, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, sex, color, religion, nation origin, handicap, or familial
- C. To make, print, or publish, or cause to be made, printed, or publish any notice, statement, or advertisement, with respect to the sale or rental or dwelling that indicates any preference, limitation, or discrimination based on race, sex, color, religion, or national origin, handicap, or familial status or an intention to make any such preference, limitation, or discrimination.

## Planning, Zoning and Development

- D. To represent to any person because of race, sex, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons, of a particular race, sex, color, religion or national origin, handicap, or familial status.

### Section 12-905 DISCRIMINATION IN THE FINANCING OF HOUSING

It shall be unlawful for any bank, building or loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, construction, improving repairing, or maintaining a dwelling, or to discriminate against him/her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, sex, color, religion, national origin, handicap, or familial status of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given:

Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Section 12-903B.

### Section 12-906 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

It shall be unlawful to deny any person access to membership or participation in any multiple-listing service, rental or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership, or participation, on account of race, sex, color, religion, national origin, handicap, or familial status.

### Section 12-907 EXEMPTION

Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such person, unless membership in such religion in

## Planning, Zoning and Development

restricted on account of race, sex, color, national origin, handicap, or familial status. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

### Section 12-908 ADMINISTRATION

- A. The authority and responsibility for administering the Act shall be in the Chief Executive Officer of the City of Coweta.
- B. The Chief Executive Officer may delegate any of these functions, duties, and powers, to employees of the City or to boards of such employees, including function, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance. The chief Executive Officer shall by rule prescribe such right of appeal from the decisions of his/her hearing examiners or to himself/herself, as shall be appropriate and in accordance with law.
- C. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Chief Executive Officer to further such purposes.

### Section 12-909 EDUCATION AND CONCILIATION

Immediately after the enactment of this ordinance, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purpose of this ordinance. He/she shall call conferences of persons in the housing industry and other interest parties to acquaint them with the provisions of this ordinance and his suggested means of implementing it, and shall endeavor with their advice to work other programs of voluntary compliance and of enforcement.

### Section 12-910 ENFORCEMENT

- A. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chief Executive Officer. Complaints shall be in writing and shall contain such information and be such form as the Chief Executive Officer requires. Upon receipt of such complaint,



## Planning, Zoning and Development

the Chief Executive Officer shall furnish a copy of the same to the person or persons who allegedly committed or about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or with thirty days after the expiration of any period of reference under subsection C, the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Chief Executive Officer decides to resolve the complaints, he/she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this ordinance without the written consent of the persons concerned. Any employee of the Chief Executive Officer shall make public any information in violation of this provision and shall be (upon conviction) fined not more than \$1,000.00 or imprisoned not more than one year.

- B. A complaint under subsection A shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the aggregations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Chief Executive Officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.
- C. If within thirty days after a complaint is filed with the Chief Executive Officer, the Chief Executive Officer has been unable to obtain voluntary compliance with this ordinance, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in this filing.
- D. If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty days of the complaint, the persons aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this ordinance, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- E. If any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

## Planning, Zoning and Development

- F. Whenever an action filed by an individual shall come to trial, the Chief Executive Officer shall immediately terminate all efforts to obtain voluntary compliance.

### Section 12-911 INVESTIGATIONS; SUBPOENAS; GIVING OF EVIDENCE

- A. In conducting an investigation the Chief Executive Officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoena to complete his access to or the production of such materials, or the appearance of such person, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations that would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.
- B. Upon written application to the Chief Executive Officer, a Respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitation as subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were used at this request.
- C. Witnesses summoned by Subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him/her.
- D. Within five days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer shall grant the petition if he/she finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

## Planning, Zoning and Development

- E. In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or other person at whose request it was issued may petition for its enforcement in the Municipal or State court for the district in which the person to whom the subpoena was addressed resides, was served to transacts business.
- F. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer shall be fined not more than \$1,000.00 or imprisonment not more than one year, or both.
- G. The City Attorney shall conduct all litigation in which the Chief Executive Officer participates as a party or as amicus pursuant to this ordinance.

### Section 12-912 ENFORCEMENT BY PRIVATE PERSONS

- A. The rights granted by Sections 12-903, 12-904, 12-905 and 12-906 may be enforced by civil action in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided however, that ht court shall continue such civil case brought pursuant to this Section or Section 12-910D from time to time before bringing it to trial if the court believes that the discriminatory housing practice complaint made to the chief Executive Officer and which practice forms the basis for the action in court: And provide, however, that any sale, encumbrance, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this ordinance shall not be effected.
- B. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000.00 punitive damages, together with court costs and reasonable attorneys fees and in the case of a prevailing plaintiff. Provided, that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

### Section 12-913 INTERFERENCE, COERCION OR INTIMIDATION

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or an account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 12-903, 12-904, 12-905, or 12-911. This Section may be enforced by appropriate civil action.

Planning, Zoning and Development

Section 12-914 SEVERABILITY OF PROVISIONS

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 12-915 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

Whoever, whether or not acting under color of law, by force or threat of force willfully inures, intimidates, or interferes with, or attempts to injure, intimidate or interfere with:

- A. Any person because of his/her race, color, religion, national origin, handicap or familial status and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for participating in any service organization, or facility relating to the business of selling or renting dwellings; or
- B. Any person because he/she is or has been, or in order to intimidate such person or any other person or any class of person from:
  - 1. Participating, without discrimination on account of race, color, religion, national origin, handicap or familial status, in any of the activities, services, organizations or facilities described in subsection 12-915A; or
  - 2. Affording another person or class of persons opportunity or protection so to participate; or
- C. Any citizen because he/she is nor has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, nation origin, handicap or familial status, in any of the activities, services, organizations or facilities described in subsection 12-915A or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate: shall be guilty of an offense and shall be punished as provided for in Section 12-912 of this Code.

SECTION 2. LET IT BE KNOWN TO ALL PERSONS OF THE CITY OF COWETA that discrimination in the sale, rental, leasing, financing of houses or land to be used for construction of housing or in the provision of brokerage services because of race, color, religion, sex or national origin is prohibited by Title VIII of the 1968 Civil right Act (Federal Fair housing Law).

## Planning, Zoning and Development

SECTION 3. It is the policy of the City of Coweta to implement programs to ensure equal opportunity in housing for all persons regardless of race, color, religion, sex or national origin. The Fair Housing

Amendments Act of 1988 expands coverage to include disabled persons and families with children. Therefore, the City of Coweta does hereby pass the following Ordinance.

SECTION 4. BE IT RESOLVED that within available resources the City of Coweta will assist all persons who feel they have been discriminated against because of race, color, religion, sex, national origin, disability or familial status to seek equity under the federal and state laws by filing a complaint with the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Compliance Division.

SECTION 5. BE IT FURTHER RESOLVED that the City of Coweta shall publicize this Ordinance and through this publicity shall encourage owners of real estate, developers, and builders to become aware of their respective responsibilities and right under the Federal Fair housing law and amendments and any applicable state or local laws or ordinances.

SECTION 6. SAID PROGRAM will at a minimum include: 1) printing and publicizing of this policy and other applicable fair housing information through local media and community contracts; 2) distribution of posters, flyers and other means that will bring to the attention of those affected, the knowledge of their respective responsibilities and rights concerning equal opportunity in housing; and 3) prepare an analysis of impediments to fair housing choices and actions to mitigate such impediments.

SECTION 7. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION 8. An emergency exists for the preservation of the public, peace, and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.