

CHAPTER 4

BUILDING AND CONSTRUCTION

- Article 1. Codes and Code Administration.
- Article 2. Municipal Permits.
- Article 3. Flood Damage Prevention.
- Article 4. Miscellaneous Provisions.
- Article 5. Penalty.

Article 1. Codes and Code Administration

Section 4-1. Codes Adopted.

The particular Codes listed below (with revisions as may be hereinafter) set forth are hereby adopted and incorporated in this Code of Ordinances, as fully as if set out at length herein, for the purposes of establishing rules and regulations for the following activities carried on within the corporate limits of the City of Elk City, Oklahoma:

1. (Building Code) The construction, alteration, removal, demolition, equipment, use, occupancy, location and maintenance of buildings and structures:

International Building Code, Current Edition;

2. (Plumbing Code) The installation or alteration of plumbing and drainage systems for buildings and structures:

International Plumbing Code , Current Edition;

3. (Electrical Code) The installation or alteration of electrical equipment for buildings or structures:

N.F.P.A. 70 National Electrical Code, Current Edition;

International Electrical Code, Current Edition;

4. (Fire Prevention Code) The provision of basic safeguard to property from the hazards of fire and explosion:

International Fire Code, Current Edition;

5. (Life Safety Code) The provision of basic safeguards to life from the hazards of fire and explosion:

Life Safety Code (recommended by the National Fire Protection Association), Current Edition;

6. (Mechanical Code) The installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto:

International Mechanical Code , Current Edition;

7. (Housing Code) For the control of buildings and structures hereto:

International Property Maintenance Code, Current Edition;

8. (Traffic Control Devices Code) The installation or alteration of Traffic Control Devices:

Manual on Uniform Traffic Control Devices, 1988 and subsequent editions;

9. One and Two Family Dwelling. The fabrication, erection, construction, enlargement, alteration, repair, location and use of detached One and Two Family Dwelling, there appurtenances and accessory structures;

International Residential Code, Current Edition;

10. (Fuel Gas Code) regulating and governing fuel gas systems and gas-fired appliances:
International Fuel Gas Code, Current Edition;

11. (Energy Conservation Code) regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems;

International Energy Conservation Code, Current Edition;

12. (Private Sewage Disposal Code) regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of individual sewage disposal systems;

International Private Sewage Disposal Code, Current Edition;

13. (Urban-Wildland Interface Code) regulating and governing the mitigation of hazard to life and property from the intrusion of fire from wildland exposures, fire from adjacent structure fires from spreading to wildland fuels;

International Urban-Wildland Interface Code, Current Edition;

14. (Fuel Storage Code) regulating flammable and combustible liquids, more specifically, the construction and installation of above ground and below ground fuel storage tanks:

NFPA 30 (National Fire Protection Association), Current Edition;

15. (Swimming Pool Code) for the installation or alteration of swimming pools, spas, hot tubs and aquatic facilities:

International Swimming Pool and Spa Code, Current Edition

Section 4-2. Modification of Adopted Codes.

1. Whenever the words "City", "Town", or "Municipality" are used in those Codes adopted, it shall mean the City of Elk City, Oklahoma.

2. Wherever the words "Inspector", "Building Inspector" or "Administrative Official" are used in those Codes adopted, it shall mean the municipal official currently assuming the duties and responsibilities of Municipal Building Inspector for the City Of Elk City, Oklahoma.

3. All official titles used in those Codes adopted shall be interpreted as define in this Code of Ordinance.

4. Maximum penalties for violation of provisions of those Codes adopted shall be as provided in the "Penalty" Section of this Chapter.

5. Notwithstanding any provisions of any of those Codes adopted by this Chapter, wood shingles may be used for roofing.

6. All limits referred to in any of those Codes adopted by this Chapter are hereby established as the corporate limits of the City of Elk City, Oklahoma.

Section 4-3. Adopted Codes on File.

Three (3) copies of those Codes adopted by the City of Elk City, Oklahoma, are on file in the Office of the City Clerk.

Section 4-4. Codes in Effect.

From the date on which this Chapter shall take effect, the provisions of said Codes, as herein modified, shall be controlling in those areas set forth hereinabove, within the corporate limits of the City of Elk City, Oklahoma.

Section 4-5. Conflicts with Code of Ordinances.

Whenever any provision of any of those Codes adopted by this Chapter conflict with the Code of Ordinances of the City of Elk City, Oklahoma, the latter provisions shall govern.

Section 4-6. Building Inspector to Enforce Codes.

Any Municipal Official or other employee designated by the City Commission shall be responsible for enforcing the Codes adopted by these ordinances. Said persons may bear such titles as "Building Inspector", "Gas Inspector", "Plumbing Inspector", "Electrical Inspector", etc., as may be deemed appropriate to indicate their respective areas of concern, and shall be appointed or designated by the City Manager.

Sections 4-7 through 4-14. (Reserved for future use.)

Article 2. Permits

Section 4-15. Building Permits.

1. No person shall erect, enlarge, construct, relocate, substantially improve, repair, place, alter, move, demolish or engage in plumbing, electrical or mechanical activities upon any building, structure, mobile or modular home, or other construction without first obtaining a separate Building Permit for each such building or structure from the Office of the City Clerk.

2. No man-made change to improved or unimproved real estate located within a designated "Flood Hazard Area", including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be initiated until a separate Building Permit has been obtained for each operation from the office of the City Clerk.

3. No mobile or modular home shall be placed on improved or unimproved real estate without first obtaining a separate Building Permit for each mobile home from the Office of the City Clerk.

4. Ordinary repairs of buildings or structures, the cost of which shall not exceed one thousand dollars (\$1,000.00), may be made without obtaining a Building Permit.

5. All applications for Building Permits shall be signed and in writing, upon an official blank form supplied by the Office of the City Clerk or the Municipal Building Inspector, and shall be submitted to either said officials, along with the required fee.

6. Building Permit fees shall be as determined by motion of the City Commission, and shall be based primarily upon the municipal costs incurred in the administration of the Municipal Building Permit System.

7. The Office of the City Clerk shall be responsible for the administration of the Building Permit process within said community; provided, that the building permit application forms may be obtained from, and submitted to, the Municipal Building Inspector.

8. Applications for Building Permits shall contain all applicable information required on the Building Permit form, and shall be accompanied by drawings of the proposed work (drawn to scale), showing floor plans, structural details, computations and such additional information as may be required of the applicant by the Office of the City Clerk, the Municipal Building Inspector, this Code of Ordinances or the City Commission.

9. Upon receipt of a complete Building Permit application and the required fee, the City Clerk shall immediately turn the application over to the Municipal Building Inspector, who shall review the application to ensure that:

- a. The involved land is properly zoned for the proposed use;
- b. Applicable Zoning District provisions (including Floodway Damage Prevention provisions as provided for in Article 3 this Chapter) have been met;
- c. Roadway access is available;
- d. Adequate and sanitary provisions have been made for utilities;
- e. All easements provided in the recorded plat, if any, are not encroached upon;
- f. All other required Municipal Permits have been obtained.

10. If the Municipal Building Inspector is satisfied that the proposed work described in the application and attached materials conform to the requirements of the adopted Zoning Ordinance, Building Code and other regulations and requirements, he shall authorize the issuance of the Building Permit by signing the application and forwarding it to the City Clerk, who shall return a copy to the applicant.

11. If the application or attached materials do not conform to pertinent municipal regulations, the Municipal Building Inspector shall not approve said application, but shall return the application to the City Clerk, along with written reason(s) for disapproval. The City Clerk shall return the application, with written reason(s) attached, to the applicant. The applicant may subsequently amend his application, if possible, and re-submit it, or initiate other action to correct the deficiencies.

12. The Municipal Building Inspector and the Office of the City Clerk shall complete all required review processes in an efficient and effective manner, without unreasonable or unnecessary delay.

13. A building Permit, once approved and issued, shall be construed as a permit to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside

any municipal regulations, nor shall such issuance prevent the Municipal Building Inspector from thereafter requiring a correction of errors in plans, construction or a violation of this Ordinance.

14. If the work allowed under an issued Building Permit has not been initiated within six (6) months from the issuance day of said permit, such permit shall become null and void unless a request for an extension is submitted to, and approved by, the Building Inspector. If said permit becomes null and void, a new permit must be obtained and the regular fee incident thereto collected, in order for the work to be initiated or resumed.

15. The Municipal Building Inspector shall keep a permanent and accurate accounting of all building permits and shall transmit copies of each permit issued to the Chairperson of the Municipal Planning Board, for information purposes. The City Clerk shall keep a permanent and accurate record of all building permit fee payments.

16. The City Clerk may revoke a building permit in case there has been any false statement or misrepresentation as to a material fact in the application or attached materials on which the building permit approval was based.

17. Building permits shall be conspicuously displayed on the project or site, in a manner visible from the street.

18. The City Clerk and the Municipal Building Inspector shall monitor municipal utility hook-up requests and shall not allow municipal utilities to be turned on to any unit, structure or project for which a building permit has not been issued.

19. Appeals from any aggrieved person concerning a decision of the City Clerk or the Municipal Building Inspector relative to the granting of building permits, shall be taken to the Municipal Planning Board, who shall act as the Permit Board of Appeals for the City of Elk City, Oklahoma.

20. In the event of any conflict between these building permit provisions delineated herein and any provision(s) of the Building Code adopted by the City Commission, the provisions of this Chapter shall prevail.

Section 4-16. House Moving Permit.

1. Before any person shall move any house, building or heavy structure on or over any street within or through the City of Elk City, Oklahoma, it shall first be necessary to obtain a permit to do so from the office of the City Clerk; said permit shall first be approved by the City Manager.

2. The fee for a permit to move such house or structure shall be fifty dollars (\$50.00). In the event it is necessary to move utility lines, poles, signs or other structures to facilitate the move, the cost therefore will be paid by the applicant, in addition to the normal fee.

3. No permit shall be issued to any person to move a house or structure unless the person has in effect a bond in the sum of five thousand dollars (\$5,000.00), conditioned that the mover will indemnify the owners of any property (public or private, including pavement, curbs, etc.) for any damage thereto resulting from the moving of any house or structure by him or by his agents or employees, and holding the City of Elk City, Oklahoma, harmless from liability for any such damages.

4. It shall be the duty of the City Manager to approve or determine the route that may be used and the potential for damages, if any, to any property. He may prescribe such rules and regulations as are necessary to promote an effective move and protection of person and property. The mover shall erect all necessary danger signals during the operation of moving.

5. Any person moving any house or any other structure on or over any street or alley, shall be liable personally and upon his bond for any damages to trees, public property, persons or any matter whatsoever resulting from such moving. This shall not be construed to authorize any person to cut or trim any trees, or commit any injury to any public or private property which cannot immediately restored to its former condition, and no permit shall authorize any moving under any conditions which will promote such damage.

Section 4-17. Pavement Cutting Permits.

1. It shall be unlawful for any person to cut any pavement on any street or alley within the City of Elk City, Oklahoma, without a permit from the Office of the City Clerk; said permit shall first be approved by the City Manager or his designated agent.

2. An estimate of the cost of cutting such pavement shall be made by the City Manager, and a deposit equal to the amount of the estimate shall be made by the applicant.

3. The City may, at its option, either make repairs of the pavement which has been cut under the provisions of this Section, and charge the costs of such repairs to the deposit herein provided, or require that the person cutting the pavement make the repairs; in the latter case, the person's deposit shall be returned, upon satisfactory repair of the pavement. Any balance remaining after all such costs are paid shall be returned to the person making said deposit.

4. Any person cutting such pavement shall maintain proper safeguards, with suitable lights, during the night hours and sufficient in number to give warning of danger to all persons.

Section 4-18. Ditching Permits.

1. It shall be unlawful for any person, firm or corporation to initiate any ditching

operation involving any public easement, right-of-way, place, area or building within the City of Elk City, Oklahoma, without first obtaining a permit from the Office of the City Clerk; said permit shall first be approved by the City Manager or his designated agent.

2. Such permit shall be issued only if the applicant meets the following conditions:
 - a. The applicant shall provide a map of the proposed project to the City Manager prior to initiating work; said map shall show, or have placed upon it by the City Manager, all municipal utility line locations in the project area, and all areas of public easement, right-of-way, places, areas or buildings potentially affected by the proposed project.
 - b. The applicant shall provide written proof that he has coordinated his project with all other applicable utility companies (telephone, electric, gas and CATV) and is aware of the locations of all such lines.
 - c. The applicant shall provide a surety bond (or cash deposit), suitable to the City of Elk City, Oklahoma, as to dollar amount and form, to insure that any damages will be repaired; upon completion of the project, the City of Elk City, Oklahoma, will review any damage claims and make appropriate arrangements.
 - d. The applicant shall agree, in writing, to maintain proper safeguards, particularly at night.
3. Violation of any of these provisions shall be grounds for revocation of the applicant's permit at any time.
4. The fee for such permit shall be as determined by the City Manager.

Section 4-19. Permits for Pipes Across Streets.

1. Oil and gas companies, and other persons, firms and corporation not operating pursuant to a franchise granted by the municipality or not operating pursuant to a permit or permit granted by the State Corporation Commission, shall secure a permit from the Office of the City Clerk before placing, installing, laying, constructing, operating or maintaining any pipe, cable, wire, conduit or line across, over, under, along, through or upon any street, alley, public way or public place within the corporate limits of the City of Elk City, Oklahoma; said permit shall first be approved by the City Manager or his designated agent.

2. The application for the permit shall specify:
 - a. The location of the pipe, cable, wire conduit or line; and
 - b. The privileges and proposed terms which the applicant desires to secure from the City and to exercise.

3. The City Manager, if he sees fit to grant the permit, will grant it on written terms which are mutually agreeable. The City Manager may revoke said permit after adequate opportunity for a public hearing, for any of the following reasons:

- a. Failure to abide by the terms on which the permit was granted:
- b. Violation of State Law or Municipal Ordinances; or
- c. Protection of public peace, health, safety or welfare.

4. The applicant shall pay such fees for such permit and for its periodic renewal as the City Commission may establish by motion.

5. The City Manager may refuse to renew a permit.

6. The City Manager may require an applicant to provide a bond for the protection of the City and/or the public in such sum and with such terms as said City Manager deems desirable. When the City Manager requires such a bond, a permit shall have no effect unless the required bond is also in effect.

Section 4-20. Construction of Fences; Permits.

It shall be unlawful and an offense for any person to construct, build, erect or alter any fence within the corporate limits of the City of Elk City, Oklahoma, except as provided herein.

1. For the purposes of this Section, the term "Fence" shall mean any structure or wall made of any material, including live plants, which is commonly used to border, envelope, decorate or to limit or exclude ingress or egress in an area.

2. Fences may be erected within the City only after the property owner has obtained a building permit through the office of the City Building Inspector and upon all payment of required fees. Fees for said permit shall be established by the City Manager.

3. Fences may be erected in yards or along the edge of yards; provided that no fence or wall shall be located in front of the front building line. NO fence or wall shall exceed six (6) feet in height, unless extraordinary circumstances require it, and, in no instances, shall a fence or wall exceed eight (8) feet in height.

4. If the property for which a fence permit is sought is on a corner lot on which a front and side yard setback are established, no fence which obstructs site lines at elevations between two (2) feet and six (6) feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle form by measuring the distance of thirty (30) feet along said front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersection. No permit shall be issued in such event.

Section 4-21. Liquefied Petroleum Gas State Permits.

It shall be unlawful for any person, firm or corporation to manufacture, fabricate, assemble, install or repair any system, container, apparatus or appliance to be used for the transportation, storage, dispensing or utilization of liquefied petroleum gas, or to transport, handle or store such gas, unless such person has complied and complies with, all provisions of the State Law and local Ordinances relating thereto, and has any permit which may be required by State Law and local Ordinances relating thereto.

Section 4-23. Hospitals and Ambulatory Surgical Care Facilities.

Hospitals.

1. *No new hospital shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk. The City Commission shall reconsider the merit of Section 4-23 not later than 30 days before July 18, 2012.*

2. "Hospital" means any institution, place, building or agency, public or private, whether organized as a for-profit or not-for-profit entity, licensed by the State and devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay, or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity.

3 Before developing a facility for use as a newly licensed hospital, the person proposing to operate the hospital shall apply to the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Clerk shall prescribe and shall include a demonstration of the hospital's probable impact on any existing hospital and surgical services in the City, including permitted facilities not yet completed.

4. The application for a permit shall be accompanied by a filing fee equal to one percent (1%) of the capital cost of the proposed facility to be utilized as the newly licensed hospital, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of thirty thousand dollars (\$30,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation, including the engagement of a reorganized health care industry consulting firm to perform a feasibility study on the development of the facility in the City. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than thirty thousand dollars (\$30,000.00) shall be refunded to the applicant.

5. Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and

proposed location of the facility, a brief description of the proposal relating to the facility, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

6. Any person may submit written evidence and argument regarding the proposed hospital to the City Clerk to be reviewed by City Staff. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

7. No permit to establish a hospital shall be issued by the City Clerk unless, after reviewing the application, the feasibility study and all other timely filed written materials and responses, the City Council makes the following findings:

- a. The proposed hospital will contribute to the orderly development of hospital and surgical services in the City;
- b. The proposed hospital will not cause an undue financial or staffing hardship on any existing provider of essential hospital or surgical services in the City, including permitted facilities not yet completed;
- c. The proposed hospital can be adequately served by the City's existing utility systems and/or infrastructure;
- d. The proposed hospital will qualify for and enter into a participating hospital provider agreement with the Federal Medicare program and Oklahoma Medicaid program;
- e. The proposed hospital will qualify for and maintain a license to operate a hospital from the State Commissioner of Health;
- f. The proposed hospital will operated and staff an emergency department where emergency services will be available to all without regard to race, sex, national origin, religious affiliation, insurance status or ability to pay on a twenty-four-hour per day, three hundred sixty-five-day per year basis;
- g. The proposed hospital will fulfill a demonstrated need in the community as described on the feasibility study for the hospital and its development is in the best interest of the health and welfare of the community.

8. The City Clerk shall schedule the application for a permit for consideration by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the facility to be used as the newly

licensed hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void and a new application must be filed.

9. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

10. For the purposes of this section, the word "hospital" does not include a long-term care facility where the average patient stay is greater than twenty-five (25) days and no operating suite and no public emergency room treatment is available.

11. Should an objection be filed by any interested party or governmental entity to the granting of a permit under this section, the City Clerk shall schedule a hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after the publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the hospital is in compliance with the state regulatory requirements and the requirements as set forth in this Section.

12. Any person or governmental entity aggrieved by the decision of the administrative law judge may appeal said decision by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

13. Permits shall not be effective until or unless all appeals permitted by this subsection have been exhausted or resolved.

14. Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Staff shall issue the permit administratively. The issuance of such permit will be subject to all other zoning, building, and code requirements being met.

15. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this Section.

AMBULATORY SURGICAL FACILITIES.

1. No new ambulatory surgical care facility shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk. The City Commission shall reconsider the merit of Section 4-23 not later than 30 days before July 18, 2012.

2. "Ambulatory surgical care facility" means an establishment licensed by the State as an ambulatory surgical care facility with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery.

3. Before developing a facility for use as a newly licensed ambulatory surgical care facility, the person proposing to operate the ambulatory surgical care facility shall file a completed application with the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Staff shall prescribe and shall provide an impact study including a demonstration of the ambulatory surgical care facility's probable impact on the existing surgical services in the City. All necessary studies shall be provided by the applicant.

4. The application for a permit shall be accompanied by a filing fee equal to one (1) percent of the capital cost of the proposed facility, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of fifteen thousand dollars (\$15,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than fifteen thousand dollars (\$15,000.00) shall be refunded to the applicant.

5. Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the ambulatory surgical care facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal relating to the facility, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

6. Any person may submit written evidence and argument regarding the proposed ambulatory surgical care facility to the City Clerk to be reviewed by City Staff. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

7. No permit to establish an ambulatory surgical care facility shall be issued by the City Clerk unless, after reviewing the application and timely filed written materials and responses, the City Staff makes the following findings:

- a. The proposed ambulatory surgical care facility will fulfill a demonstrated need in the community for the facility and its development is in the best interest of the health and welfare of the community;

- b. The proposed ambulatory surgical care facility will serve and be in the interest of the health and welfare of the community;
- c. The proposed ambulatory surgical care facility can be adequately served by the City's existing utility systems and/or infrastructure;
- d. The applicant must obtain and hold in good standing during its operation a transfer agreement with an accredited acute care facility within the corporate limits of the City of Elk City;
- e. Doctors practicing at the proposed center must be credentialed and on staff in good standing with an accredited acute care facility within the corporate limits of the City of Elk City;
- f. The applicant has obtained a license from the State Commissioner of Health as required under Title 63 of the Oklahoma Statutes.

8. Should an objection be filed by any interested party or governmental entity to the granting of said permit, the City Clerk shall schedule the application for hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty six (36) months from the date of issue, during which time an application shall start construction or conversion work on the ambulatory surgical care facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the center is in compliance with the state regulatory requirements and the requirements as set forth in this article.

9. Any person or governmental entity aggrieved by a decision of the administrative law judge shall appeal by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

10. Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Staff shall issue the permit administratively. The issuance of such permit will be subject to all other zoning, building, and code requirements being met.

11. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

IMAGING AND ENDOSCOPY FACILITIES.

1. No new Imaging or Endoscopy Facility shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk. The City Commission shall reconsider the merit of Section 4-23 not later than 30 days before July 18, 2012.

2. "Imaging facility" means an establishment licensed by the State with permanent facilities that are equipped and operated primarily for the purpose of performing the following procedures: i) Diagnostic – radiography, ii) Fluoroscopy, iii) Screening and diagnostic mammography iv) Diagnostic ultrasound procedures, v) Computerized axial tomography, vi) Magnetic resonance imaging, vii) Positron emission tomography, viii) Bone densitometry, ix) Diagnostic and therapeutic nuclear medicine including, but limited to, nuclear cardiology, x) Interventional radiology procedures, xi) Angiography, xii) other related imaging procedures, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility.

3. "Endoscopy Facility" means an establishment licensed by the state with permanent facilities that are equipped and operated primarily for the purpose of performing out-patient endoscopy, gastroscopy and colonoscopy, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility.

4. Before developing a facility for use as a newly Imaging or Endoscopy Facility, the person proposing to operate the Imaging or Endoscopy Facility shall file a completed application with the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Staff shall prescribe and shall provide an impact study including a demonstration of the facility's probable impact on the existing services in the City. All necessary studies shall be provided by the applicant.

5. The application for a permit shall be accompanied by a filing fee equal to one (1) percent of the capital cost of the proposed facility, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of fifteen thousand dollars (\$15,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than fifteen thousand dollars (\$15,000.00) shall be refunded to the applicant.

6. Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal relating to the facility, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

7. Any person may submit written evidence and argument regarding the proposed Imaging or Endoscopy Facility to the City Clerk to be reviewed by City Staff. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice.

The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

8. No permit to establish an Imaging or Endoscopy Facility shall be issued by the City Clerk unless, after reviewing the application and timely filed written materials and responses, the City Staff makes the following findings:

- a. The proposed Imaging or Endoscopy Facility will fulfill a demonstrated need in the community for the facility and its development is in the best interest of the health and welfare of the community;
- b. The proposed Imaging or Endoscopy Facility will serve and be in the interest of the health and welfare of the community;
- c. The proposed Imaging or Endoscopy Facility can be adequately served by the City's existing utility systems and/or infrastructure;
- d. The applicant must obtain and hold in good standing during its operation a transfer agreement with an accredited acute care facility within the corporate limits of the City of Elk City;
- e. Doctors practicing at the proposed center must be credentialed and on staff in good standing with an accredited acute care facility within the corporate limits of the City of Elk City;
- f. The applicant has obtained a license from the State Commissioner of Health as required under the Oklahoma Statutes.

9. Should an objection be filed by any interested party or governmental entity to the granting of said permit, the City Clerk shall schedule the application for hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty six (36) months from the date of issue, during which time an application shall start construction or conversion work on the Imaging or Endoscopy Facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the center is in compliance with the state regulatory requirements and the requirements as set forth in this article.

10. Any person or governmental entity aggrieved by a decision of the administrative law judge shall appeal by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

11. Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Staff shall issue the permit administratively.

The issuance of such permit will be subject to all other zoning, building, and code requirements being met.

12. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

Sections 4-24. (Reserved for future use.)

Article 3. Flood Damage Prevention

Section 4-25. Statutory Authorization and Findings of Fact.

The Legislature of the State of Oklahoma has in O.S. 82 §1601-1619 Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Commission of Elk City, Oklahoma, does ordain as follows:

1. The flood hazard areas of the City of Elk City 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, flood proofed or otherwise protected from flood damage.

Section 4-26. Statement of Purpose.

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

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

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

Section 4-27. 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;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Section 4-28. 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 it's most reasonable application.

Alluvial Fan Flooding - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Area of Shallow Flooding - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist,

where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

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

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

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.

Elevated Building - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

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

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

before the effective date of the floodplain management regulations adopted by a community.

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).

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

- (i.) The overflow of inland or tidal waters.
- (ii.) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

Floodplain or Flood-Prone Area - means any land area susceptible to being inundated by water from any source (see definition of flooding).

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

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) 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 a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Proofing - means any combination of structural and non-structural additions,

changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (Regulatory Floodway) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use - means a use, which 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 or historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior or;
 - b) Directly by the Secretary of the Interior in states without approved programs.

Levee - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow

of water so as to provide protection from temporary flooding.

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

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

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 National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New Construction - 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 a community 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 a community.

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

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

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

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures, which 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 to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development

without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Section 4-29. Lands to which this Ordinance Applies.

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of Elk City, Oklahoma.

Section 4-30. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Elk City", dated December 16, 2003, with accompanying Flood Insurance Rate Maps (FIRM) are hereby adopted by reference and declared to be a part of this ordinance.

Section 4-31. Establishment of Development Permit.

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

Section 4-32. 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 4-33. Abrogation and Greater Restrictions.

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

Section 4-34. 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 4-35. 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 community 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 4-36. Designation of the Flood Plain Administrator

The City Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Section 4-37. Duties and Responsibilities of the Flood Plain Administrator.

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

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval are required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 8. When base flood elevation data has not been provided in accordance with Section 4-30, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 4.
 9. When a regulatory 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 Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
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Section 4-38. Permit Procedures.

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

- a. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
- b. Elevation (in relation to mean sea level) to which any nonresidential structure shall be flood proofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing

criteria of Section 4-41 (2);

- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- e. Maintain a record of all such information in accordance with Section 4-37 (1).

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

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

Section 4-39. Variance Procedures.

- 1. The appeal Board as established by the community shall hear and render

judgment on requests for variances from the requirements of this ordinance.

2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. 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.

6. 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 4-38 (a) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Section 4-26).

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

9. 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.

10. Prerequisites for granting variances:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- b. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) and 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 or ordinances.

- c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that: (i) the criteria outlined in Section 4-39 are met, and (ii) 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 4-40. General Standards for Flood Hazard Reduction

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

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

Section 4-41. Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 4-30, (ii) Section 4-37, or (iii) Section 4-42, sub. 4, 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 two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 4-38 (1) 1, 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 two (2) feet above the base flood level.

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

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- 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 -

- a. Require that all manufactured homes to be placed within Zone A on the Elk City FIRM shall be installed using methods and practices, which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially

improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet (2) above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that the lowest floor of the manufactured home is two (2) feet above the base flood elevation, is supported by reinforced piers or other foundation elements of at least equivalent strength and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's 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 Section 4-38 (a), 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.

Section 4-42. Standards for Subdivision Proposals.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 4-25, 4-26, and 4-27 of this ordinance.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 4-31 ; Section 4-38; and the provisions of Section 4-40 of this ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other

proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 4-30 or Section 4-37 (8) of this ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals 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 4-43. Flood-Prone Areas.

Located within the areas of special flood hazard established in Section 4-30, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flows may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
2. All new construction and substantial improvements of non-residential structures together with attendant utility facilities have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet above if no depth number is specified).
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 4-38 (1) a., are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 4-44. Floodways.

Floodways - located within areas of special flood hazard established in Section 4-30, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the

following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory 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 community during the occurrence of the base flood discharge.
2. If Section 4-44 (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4-40.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

Section 4-45. 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. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 200.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Elk City from taking such other lawful action as is necessary to prevent or remedy any violation.

Article 4. Miscellaneous Provisions

Section 4-46. House Numbering System.

1. All buildings and houses in the City of Elk City, Oklahoma, shall be numbered. The City Manager or his designated agent shall be responsible for designating the proper numbers for houses and buildings.
2. The numbering of houses or commercial establishments on the North-South Streets will be divided by Broadway Avenue, with any street leading South of Broadway Avenue to begin

the 100 Block South and any street leading North of Broadway Avenue to begin the 100 Block North. On the North-South Streets, the even numbers will be on the East side of any given street and the odd numbering on the West side.

3. The numbering of houses or commercial establishments on the East-West Streets will be divided by Main Street, with any street leading East of Main Street to begin the 100 Block East and any street leading West of Main Street to begin the 100 Block West. On the East-West Streets, the even numbers will be on the South side of any given street and the odd numbering on the North side.

4. There shall be one hundred (100) numbers applicable to each block, commencing with "one" (1) on the odd side and "zero" (0) in the even side of the street.

5. Each twenty-five (25) feet of frontage on each block shall be entitled to a separate number.

6. The 1st block from the base line in either direction shall be given numbers from one hundred (100) to two hundred (200), and the 2nd block shall be given numbers from one hundred (200) to three hundred (300) and so on in consecutive order by one hundred's (100's) to each block in succession.

7. The affix "one-half" (1/2) shall be added to the last preceding number in designating stairways or garage apartments.

8. It shall be the duty of the owner of any house or building in the City of Elk City, Oklahoma to have such house or building numbered in accordance with this Section.

9. In situations where the plat or pattern of the area does not fit this numbering system, the Planning Board shall study the area and recommend to the Commission, for adoption, a numbering system to be filed on the final plat with the intent of maintaining an orderly numbering system within the City of Elk City, Oklahoma.

Section 4-47. Fire Limits.

1. The fire limits within The City of Elk City, Oklahoma shall be delineated and described on a map of the City of Elk City. The map shall be known as the "Fire Limits" map of the City of Elk City, Oklahoma and it shall be kept on file in the Office of the City Clerk.

2. It shall hereafter be unlawful for any person, firm or corporation to build, erect, construct or cause to be built, erected or constructed, or placed or moved within the territory described on the "Fire Limits Map" of the City of Elk City, Oklahoma, any building or addition thereto, unless the walls of such building or addition shall be built or constructed of stone, brick or other noncombustible material; it shall be also be unlawful to rebuild any building which has been more than fifty percent (50%) destroyed by fire, except as herein stated.

Section 4-48. Movement of Frame Buildings.

No frame building shall be moved from without to within the corporate limits of the City of Elk City, Oklahoma, which by reason of its age, state of repair, condition of wiring or which, for any other reason, is unfit for human habitation or which might endanger the public peace, safety, health or welfare.

Section 4-49. Plumbing License Required.

1. Any persons, firms, partnerships, corporations or other legal entities desiring to engage in the business of plumbing in the City of Elk City, Oklahoma, shall obtain a license from the City Clerk.

2. The fee of said license shall be as follows:

a. Annual Fee - Contractor- \$150.00

3. No license shall be issued for longer than one (1) year and all permits shall expire on June 30 of each year. License fees shall be prorated in the following manner: Applications filed more than six (6) months prior to the last day of June of any year shall pay the permit fee in full; applications filed less than six (6) months prior to the last day of June of any year shall pay one-half (1/2) of the fee prescribed herein. No license shall be returned or transferred from person to person or place to place. Licenses shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

4. No municipal license shall be granted or renewed until and unless the applicant has received a valid license from the State of Oklahoma Board of Health for the same period of time as to be licensed by the City of Elk City, Oklahoma.

5. No person shall do any gas fitting, extensions, connection of fixtures or repairs to any gas fitting except a licensed plumber, as provided in this Code of Ordinances.

Section 4-50. Plumbing Bond.

1. In addition to the above license fee, and before said license is issued, the applicant shall file with the City Clerk a performance bond in the sum of five thousand dollars (\$5,000.00).

2. The conditions of said bond are that the principal in such bond will save the City of Elk City, Oklahoma, harmless from all damage to all persons or property resulting from, or in any way growing out of, any opening or excavation made by himself, his agents, servants or employees in any alley, street, public highway, sidewalk or curb; and further, that the principal shall pay any

and all loss and damage occasioned by himself, his agent, servant or employee, and that he will comply with all ordinances of the city.

3. All such licenses issued shall be valid only while the aforesaid bond is in effect.

Section 4-51. Electrical License Required.

1. All persons, firms, partnerships, corporations or other legal entities desiring to engage in the business of installing electrical fixtures, wiring or apparatus in or on any building within the corporate limits of the City of Elk City, Oklahoma, shall obtain a license from the City Clerk.

2. The fee for said license shall be as follows:

- a. Annual Fee - Contractor - \$150.00

3. No license shall be issued for longer than one (1) year and all permits shall expire on June 30 of each year. License fees shall be prorated in the following manner: Applications filed more than six (6) months prior to the last day of June of any year shall pay the license fee in full; applications filed less than six (6) months prior to the last day of June of any year shall pay one-half (1/2) of the fee prescribed herein. No license shall be returned or transferred from person to person or place to place. Licenses shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

4. No municipal license shall be granted or renewed until and unless the applicant has received a valid license from the State of Oklahoma Board of Health for the same period of time as to be licensed by the City of Elk City, Oklahoma.

Section 4-52. Electrical Contractor's Bond.

1. Every person receiving a license as any electrical contractor shall file with the City Clerk a performance bond in the sum of five thousand dollars (\$5,000.00), executed with a surety company authorized to do business in the State of Oklahoma; and conditioned that the principal will install all electrical wiring, fixtures, appliances and equipment in accordance with State Law and other provisions of this Code of Ordinances; that the principal shall, without further cost to the person for whom the work was done, remedy and defective or faulty work caused by poor workmanship or inferior (or non-standard) material; and that the City of Elk City, Oklahoma, will be fully indemnified and held harmless from any and all costs, expenses or damages resulting from the performance of his work as an electrical contractor.

2. No license shall be issued to any such person until the said bond shall have been filed.

3. All such licenses issued shall be valid only while the aforesaid bond is in effect.

Section 4-53. Officers and Employees not Liable.

1. Any officer or employee of the City of Elk City, Oklahoma, charged with the enforcement of this Chapter and acting in good faith and without malice, for the City of Elk City, Oklahoma, in the discharge of his duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damages that may accrue to persons or property as a result of any act or omission required or permitted in the discharge of such duties.

2. Any suit brought against any officer or employee because of such act or omission performed by him in the enforcement of any provisions of such Codes may be defended by the City Attorney until the final termination of the proceedings.

Section 4-54. Mechanical License Required.

1. All persons, firms, partnerships, corporations or other legal entities desiring to engage in the business of installing mechanical fixtures (heat and air), in or on any building within the corporate limits of the City of Elk City, Oklahoma, shall obtain a license from the City Clerk.

2. The fee for said license shall be as follows:

- a. Annual Fee - Contractor - \$150.00

3. No license shall be issued for more than one (1) year and all licenses shall expire on June 30 of each year. License fees shall be prorated in the following manner: Applications filed more than six (6) months prior to the last day of June on any year shall pay the license fee in full; applications filed less than six (6) months prior to the last day of June of any year shall pay one-half (1/2) of the fee prescribed herein. No license shall be returned or transferred from person to person or place to place. Licenses shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

4. No municipal license shall be granted or renewed until and unless the applicant has received a valid license from the State of Oklahoma Board of Health for the same period of time as to be licensed by the City of Elk City, Oklahoma.

Section 4-55. Mechanical Contractor's Bond.

1. Every person receiving a license as a mechanical contractor shall file with the City Clerk a bond in the sum of five thousand dollars (\$5,000.00), executed with a surety company authorized to do business in the State of Oklahoma; and conditioned that the principal will install all mechanical fixtures in accordance with State Law and other provisions of this Code of Ordinances;

that the principal shall, without further cost to the person for whom the work was done, remedy any defective or faulty work caused by poor workmanship or inferior (or non-standard) material; and that the City of Elk City, Oklahoma, will be fully indemnified and held harmless from any and all costs, expenses or damages resulting from the performances or his work as a mechanical contractor.

2. No license shall be issued to any such person until the said bond shall have been filed.

3. All such licenses issued shall be valid only while the aforesaid bond is in effect.

Section 4-56. The Board of Building Code Appeals; Creation.

1. Membership. The Board of Building Code Appeals shall consist of nine (9) members appointed by the Mayor and confirmed by the City Commission and one (1) ex-officio member designated by the administrative authority who shall serve as secretary to the Board.

2. Compensation. Appointed members shall serve without compensation.

3. Qualifications. The members of the Board shall be persons who are citizens of the City of Elk City with the qualification of an elector. Each member shall have had ten (10) years or more experience in his field unless otherwise provided below and shall be familiar with the adopted Building Codes of the City.

4. Composition. The Board shall consist of the following:

a. One member who is a licensed electrical contractor in the City of Elk City;

b. One member who is a licensed mechanical contractor in the City of Elk City;

c. One member who is a licensed plumbing contractor in the City of Elk City;

d. One member who is an employee of Public Service Company or Oklahoma Natural Gas Company;

e. One member who is a licensed professional architect or engineer;

f. One member who is a general commercial contractor;

g. One member with fire protection experience or training;

h. One member who is a residential home owner of the City of Elk City for at least two (2) years immediately preceding such appointment;

i. One representative of the property/casualty insurance;

j. Ex-officio member designated by the City Manager.

5. Composition of the Board will vary according to the availability of qualified personnel and the need to keep the size of the Board commensurate with the size and complexity of the jurisdiction. To the extent that is feasible, appointments to membership on the Board shall be selected from the above categories so that the Board will not be dominated by a single or by collusive interests.

6. Tenure of Board members. The tenure of the Board members shall be as follows:

- a. The ex-officio member shall be designated by the City Manager to act as the secretary to the Board and shall serve until relieved by the administrative authority. The ex-officio member has no vote in any proceeding or matter before the Board.
- b. Original appointments to the Board, after the effective date of this code, shall be:
 1. Members from the electrical contractor, the employee of Public Service Company or Oklahoma Natural Gas and the member with fire protection experience or training shall serve for a period of three (3) years.
 2. Members from the mechanical contractor, the licensed professional architect or engineer and the residential homeowner shall serve for a period of two (2) years.
 3. Members from the licensed plumbing contractor, the general commercial contractor, and the representative of the property/casualty insurance industry shall serve for a period of one (1) year.
- c. Upon expiration of the original appointments, appointments shall be made for two (2) year terms or until a successor is appointed. In the event of a vacancy during a term, the appointing authority may appoint a replacement to fulfill the unexpired portion of the term.
- d. Members shall serve at the pleasure of the Mayor and City Commission and may be removed for cause at anytime by the Mayor and City Commission.

7. Rules.

- a. The Board shall adopt reasonable rules that establish procedures for carrying out its official duties in addition to any rules provided for in this code.

- b. The Mayor shall appoint one (1) of their number, as chairman and members of the Board of Building Code Appeals shall elect one (1) member to serve as vice-chairman.
- c. There shall be at least five (5) members present at meeting in order to form a quorum for holding an official meeting. And a majority of the members present shall be required to affirm, modify, or reverse the decision of the Code official or to decide in favor of an appellant of any matter, which it may pass upon.
- d. A member shall disqualify himself and shall not hear an appeal in which that member has any personal, professional or financial interest on any matter on appeal.
- e. The procedures established by the Board shall not require compliance with strict rules of evidence but shall mandate that only relevant information is received.
- f. The decision of the Board shall be formalized in a resolution executed by the Chairman and the Code official. Copies shall be furnished to the appellant.

8. Meetings.

- a. All meetings before the Board shall be open to the public at a reasonable time and place.
- b. All notices of the hearing or meeting of the Board shall be in strict compliance with the State Statutes relating to public meetings.
- c. The Board shall meet upon notice from the Chairman within ten (10) working days from the filing of an appeal, or stated at periodic meetings, or as called by the Chairman.

9. The Board of Building Code Appeals shall have the following duties:

- a. The Board of Building Code Appeals shall hear appeals of any person from the decision of the City Building Inspector refusing to grant a modification to the provisions of the building code in question concerning the manner of construction or material to be used in the erection, alteration or repair of a building or structure. An application for appeal shall be based on a claim that the true intent of the building codes or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or that an equivalent form of construction can be used. The term "building code" shall include the codes adopted by the City of Elk City,

Oklahoma set forth in Section 4-1 of the Code of Ordinances of the City of Elk City, Oklahoma. The application for appeal shall be filed with the City Clerk on a form provided by the City Building Inspector, and shall be filed within twenty (20) calendar days after receipt of the written notice of denial of the City Building Inspector.

- b. The Board of Building Code Appeals shall hear persons aggrieved by the City Building Inspector relating to registration certificates of apprentices, journeyman, or contractors. The Board of Building Code Appeals shall have the power to revoke any registration certificate of any apprentice, journeyman or contractor if such person shows incompetence or lack of knowledge in matters relevant to such certificate wherein the certificate was obtained by fraud or if the license issued to that person by the Oklahoma State Department of Health is revoked.
- c. The Board of Building Code Appeals shall, at a minimum of once a year, review the building codes and procedure and provide recommendations to the City Building Inspector for review and action.
- d. The Board of Building Code Appeals shall consist of not less than five (5) citizens of Elk City, appointed by the Mayor, subject to approval and confirmation by the City Commission, to serve at will of the City Commission.

10. Any person aggrieved by the decision of the Board of Building Code Appeals shall have the right to appeal to the City Commission. Any appeal to the City Commission shall be made within thirty (30) days of the decision of the Board and filed with the City Clerk. The application of an appeal to the City Commission shall state relevant information on how the Board incorrectly acted or erred.

11. The fee for appeals shall be provided in the fee schedule of this code.

Sections 4-56 through 4-59. (Reserved for future use.)

Article 5. Penalty

Section 4-60. Penalty.

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.