

CHAPTER XVI. ZONING AND PLANNING

- Article 1. Planning Commission
- Article 2. Board of Zoning Appeals
- Article 3. Zoning Regulations
- Article 4. Flood Plain Zoning

ARTICLE 1. PLANNING COMMISSION

- 16-101. COMMISSION ESTABLISHED. Under the authority of K.S.A. 12-701 there is hereby created a planning commission for the city which commission shall have the powers and duties set forth in K.S.A. 12-704. (Ord. 543, Sec. 1)
- 16-102. MEMBERSHIP. The planning commission shall consist of not less than seven or more than 15 members, two of whom shall reside outside the city limits and within a limit of three miles from the city limits.
The members of the planning commission shall be appointed by the mayor with the approval of the city council. The members of the commission first appointed shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equal as possible between these terms as one, two and three years. Thereafter members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term only. Members of the commission shall serve without compensation for their service. (K.S.A. 12-702; Ord. 543, Sec. 1)
- 16-103. POWERS; DUTIES. The powers and duties of the planning commission shall be as established by Kansas Statutes Annotated. (Ord. 543, Sec. 1)
- 16-104. ORGANIZATION; MEETINGS, QUORUM; RECORDS. The members of the city planning commission shall meet within two weeks following their appointment and organize by selection of one of their members a chairperson and one as vice-chairperson, who shall serve one year and until his or her successor has been selected and qualified. The city planning commission shall meet thereafter at least once each month at such time and place as it may fix by resolution. Special meetings may be called by the chairperson or in his or her absence by the vice-chairperson. A majority of such commission shall constitute a quorum for the transaction of business. The commission shall cause a proper record to be kept of all the proceedings. (K.S.A. 12-703; Ord. 543, Sec. 1)
- 16-105. COMPENSATION. All members of the commission shall serve without compensation, but they may be reimbursed for their expenses actually incurred in the performance of their duties. (K.S.A. 12-702, Ord. 543, Sec. 1)
- 16-106. REMOVAL OF MEMBERS. No member of the commission shall be removed during his or her term of office, except for cause, and after a hearing held before the governing body by whom he or she was appointed, or in case of

disqualification by moving out of the city, or by moving out of the area represented by him or her on the planning commission. (Ord. 543, Sec. 1)

ARTICLE 2. BOARD OF ZONING APPEALS

- 16-201. **BOARD CREATED.** (a) A board of zoning appeals is hereby created. The board shall consist of three members to be appointed by the mayor with the approval of the city council. All of the members of the board shall be residents of the city. None of the members shall hold any other public office of the city except that one member may be a member of the city planning commission.
- (b) The member of the planning commission shall be appointed to the board in the same manner as other members of the board of zoning appeals. In the event such member's term on the planning commission shall expire prior to the expiration of the term on the board of zoning appeals, and in the event such member is not reappointed on the planning commission, his or her position on the board of zoning appeals shall become vacant simultaneously with the expiration of the appointment to the planning commission.
- (Ord. 543, Sec. 2)
- 16-202. **VACANCY.** In the event of the death, resignation, disqualification or removal of any member before the expiration of his or her term, a successor shall be appointed by the mayor and confirmed by the city council to serve the unexpired term. (Ord. 543, Sec. 2)
- 16-203. **OFFICERS.** (a) The board of zoning appeals shall annually elect a chairperson, a vice-chairperson and appoint a secretary. The secretary may be an officer or employee of the city.
- (b) The chairperson, or in his or her absence the vice-chairperson, shall preside at all meetings, shall decide all points of order or procedure.
- (Ord. 543, Sec. 2)
- 16-204. **RULES AND MEETINGS.** The board may adopt rules to govern its proceedings in accordance with the provisions of this article. Meetings of the board shall be held at any time at the call of the chairperson and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the boards, decisions of the board, and the vote upon each question. (Ord. 543, Sec. 2)
- 16-205. **POWERS; DUTIES.** The board of zoning appeals shall have the powers and duties set forth in K.S.A. 12-715 and shall administer the details of appeals from the provisions of the zoning ordinance, or other matters referred to it regarding the application of the zoning ordinance. In exercising these powers the board, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and attach appropriate conditions, and may issue or direct the issuance of a permit. (Ord. 543, Sec. 2)

16-206. FEE. The fee for an application for appeal to the board shall be figured at five percent of the improvement cost with a minimum fee of \$25 and a maximum of \$100, no part of which shall be refundable. The fee shall be used to compensate the city for costs associated with the appeal. The city clerk shall be responsible for the collection of the application fee. (Ord. 543, Sec. 2)

ARTICLE 3. ZONING REGULATIONS

16-301. ZONING REGULATIONS INCORPORATED. There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the governing body of the City of Rossville, Kansas, as prepared by the city and consisting of Ordinance No. 555 and entitled, "Zoning Regulations of the City of Rossville, Kansas." No fewer than three copies of the zoning regulations, marked "Official Copy as Incorporated by the Code of the City of Rossville" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours. (Ord. 555, Sec. 1)

ARTICLE 4. FLOOD PLAIN ZONING

STATUTORY AUTHORIZATION, FINDINGS OF FACT PURPOSE AND OBJECTIVES

16-401. STATUTORY AUTHORIZATION. The legislature of the State of Kansas has in K.S.A. 12-707 et seq. delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (Ord. 576, Art. 1, Sec. 1.1)

16-402. FINDINGS OF FACT. (a) The flood hazard area of the city are subject to periodic inundation which, results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. 576, Art. 1, Sec. 1.2)

16-403. STATEMENT OF PURPOSE. It is the purpose of this article 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:

(a) To protect human life and health;

(b) To minimize expenditure of public money for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (d) To minimize prolonged business interruptions;
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
 - (f) To 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;
 - (g) To insure that potential home buyers are notified that property is in a flood area; and
 - (h) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (Ord. 576, Art. 1, Sec. 1.3)

16-404. METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, this article includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion or to flood heights or velocities.
 - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
 - (d) Controlling filling, grading, dredging, and other development which may increase erosion or flood damage.
 - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodway waters or which may increase flood hazards in other areas.
- (Ord. 576, Art. 1, Sec. 1.4)

16-405. DEFINITIONS. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

- (a) Actuarial or Risk Premium Rates mean those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. Risk premium rates include provisions for operating costs and allowances.
- (b) Appeal means a request for a review of the board of zoning appeals interpretation of any provision of the ordinance or a request for a variance.
- (c) Area of Shallow Flooding means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (d) Area of Special Flood Hazard is the land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.
- (e) Base Flood means the flood having one percent chance of being equalled or exceeded in any given year.

(f) Basement means any area of the building having its floor subgrade (below ground level) on all sides.

(g) Development means any man-made change to improve or 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 material.

(h) 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 FIRM's effective before that date. Existing construction may also be referred to as existing structures.

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

(1) The overflow of inland or tidal waters.

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

(j) Flood Insurance Rate Map (FIRM) means an official map of a community, on which the flood insurance study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

(k) Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary/floodway map and the water surface elevation of the base flood.

(l) Floodway or 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 one foot.

(m) Floodway Fringe is that area of the flood plain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

(n) Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

(o) Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(p) Historic Structure. 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 the Interior; or (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (A) By an approved

state program as determined by the Secretary of the Interior or (B) Directly by the Secretary of the Interior in states without approved programs.

(q) 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. For flood plain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term manufactured home does not include recreational vehicles.

(r) 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.

(s) New Construction. 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.

(t) Recreational Vehicle means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the longest horizontal projection; (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.

(u) 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 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 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 a 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.

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

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

(x) 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 the start of construction of the improvement. This term 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 to assure safe living conditions or (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(y) Variance is a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship. (Ord. 576, Art. 2)

GENERAL PROVISIONS

16-406. LANDS TO WHICH THIS ORDINANCE APPLIES. This article shall apply to all areas of special flood hazards within the jurisdiction of the city. (Ord. 576, Art. 3, Sec. 3.1)

16-407. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard identified by the Federal Emergency Management Agency through a scientific and engineering report entitled "The Flood Insurance Study for the City of Rossville, Kansas", dated June of 1979, with accompanying Flood Insurance Rates Maps (and flood boundary and floodway maps) with any revision provided to the city thereto are hereby adopted by reference and declared to be a part of this article. The flood insurance study is on file with the city clerk with the city. (Ord. 576, Art. 3, Sec. 3.2)

16-408. PENALTIES FOR NON-COMPLIANCE. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than three days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 576, Art. 3, Sec. 3.3)

16-409. ABROGATION AND GREATER RESTRICTIONS. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed

restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 576, Art. 3, Sec. 3.4)

16-410. INTERPRETATION. In the interpretation and application of this article, 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. (Ord. 576, Art. 3, Sec. 3.5)

16-411. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article 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 article shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. (Ord. 576, Art. 3, Sec. 3.6)

ADMINISTRATION

16-412. ESTABLISHMENT OF A DEVELOPMENT PERMIT. A development permit shall be obtained before construction or development begins within any area of special flood hazards established in section 16-407. No person shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development as defined in section 16-405. Application for a development permit shall be made on forms furnished by the city clerk of the city and may include, but not be limited to, plans, in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required.

(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

(b) Elevation in relation to mean sea level to which any non-residential structure is to be floodproofed.

(c) Certification from a registered professional engineer or architect that the non-residential floodproofed structure will meet the floodproofing criteria in section 16-418(b).

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 576, Art. 4, Sec. 4.1)

16-413. DESIGNATION OF THE LOCAL ADMINISTRATOR. The city clerk or the designated code administrator for the city is hereby appointed to administer and implement the provisions of this article, by granting or denying development permit applications in accordance with its provisions. (Ord. 576, Art. 4, Sec. 4.2)

16-414.

DUTIES AND RESPONSIBILITIES OF THE CITY CLERK OR OTHER DESIGNED. Duties of the city clerk or other designee shall include, but not be limited to:

(a) Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.

(b) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(c) When base flood elevation data has not been provided in accordance with section 16-407, then the city clerk or designated code administrator shall obtain, review and reasonably utilize any base flood elevation or floodway data available from a federal, state or other source in order to administer the provisions of section 16-407.

(d) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

(e) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

(f) When floodproofing is utilized for a particular structure the city clerk or designated code administrator shall obtain certification from a registered professional engineer or architect.

(g) Notify adjacent communities and the Division of Water Resources, Kansas State Board of Agriculture prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.

(h) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

(i) 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 city clerk or designated code administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in the article.
(Ord. 576, Art. 4, Sec. 4.3)

16-415.

VARIANCE PROCEDURES. (a) The board of zoning appeals as established by the city shall hear and decide appeals and requests for variances from the requirements of this article.

(b) The board of zoning appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the city clerk or designated code administrator in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the board of zoning appeals or any taxpayer may appeal such decision to the District Court, Shawnee County, Kansas as provided in K.S.A. 12-715.

(d) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and;

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility to a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) 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; and,
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electric, and water systems, and streets and bridges.

(e) Conditions for Variances.

- (1) Generally, 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 items (1-6) below, have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) 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 section.
- (3) Variances shall not be issued within any designation floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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.
- (6) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 576, Art. 4, Sec. 4.4)

PROVISION FOR FLOOD HAZARD REDUCTION

- 16-416. GENERAL STANDARDS. In all areas of special flood hazards (Zones A, AE, A1-30, AO, AH) the following provisions are required:
- (a) All new construction including manufactured homes and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effect of buoyancy.
 - (b) All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
 - (c) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (d) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters.
 - (g) On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (h) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - (i) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
 - (j) That until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the city's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonable anticipated uses, will not increase the water surface elevation of the 100-year flood more than one foot on the average cross section of the reach in which the development or landfill is located as shown on the flood insurance rate study incorporated by reference in section 16-407 of this article.
- (Ord. 576, Art. 5, Sec. 5.1)

- 16-417. STANDARDS FOR SUBDIVISION PROPOSALS. (a) All subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have the public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), which is greater than either 50 lots or five acres.

(Ord. 576, Art. 5, Sec. 5.2)

16-418.

SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set forth in sections 16-407 or 16-414(c), (Zones A1-30, AE and AH) the following provisions are required:

(a) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.

(1) All new construction and substantial improvements of residential structures with basements in zones A1-A30, AH, AO and AE shall be designed and built so that any basement area, together with attendant utilities and sanitary facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods that exceed that level. The floodproofed design level shall be an elevation one foot above the level of the base flood where the difference between the base flood and the 50-year flood is three feet or less and two feet above the level of the base flood where the difference is greater than three feet.

(2) The top of the floor of any basement area shall be no lower than five feet below the elevation of the base flood.

(3) The area surrounding the structure on all sides shall be filled to or above the elevation of the base flood. Fill must be compacted with slopes protected by vegetative cover.

(4) A registered professional engineer or architect shall develop or review the building's structural design, specifications, and plans, including consideration of the depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph.

(5) The building inspector or other authorized representative of the community shall inspect the building to verify that the structure is built according to its design and those provisions of this section which are verifiable.

(b) Non-Residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to one foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 16-414(f).

(c) Require for all New Construction and Substantial Improvements - That 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 designated 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 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(d) Manufactured Homes. (1) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with state and local building codes and FEMA guidelines. In the event that over-the-top frames ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(i) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;

(ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;

(iii) All components of the anchoring system be capable of carrying a force of 4800 pounds; and

(iv) Any additions to the manufactured home be similarly anchored.

(2) Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevations; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of section 16-418(d)(1). (Ord. 576, Art. 5, Sec. 5.3)

16-419. FLOODWAYS. Located within areas of special flood hazard established in 16-407 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

(b) If section 16-419(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood levels during occurrence of the base flood discharge.

(c) In Zone A unnumbered, obtain review and reasonably utilize any floodway data available through federal, state or other sources of section 16-419(b) of this article in meeting the standards of this section. (Ord. 576, Art. 5, Sec. 5.4)

16-420. Reserved for future use.

16-421. NON-CONFORMING USE. (a) A structure of the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this article may be continued subject to the following conditions:

(1) If such use is discontinued for 24 consecutive months, any future use of the building premises shall conform to this article. The utility department shall notify the city clerk in writing of instances of non-conforming uses where utility services have been discontinued for a period of 24 months.

(2) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

(b) If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Ord. 576, Art. 6)

16-422. AMENDMENTS. The regulations, restrictions, boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. (Ord. 576, Art. 7)