

## ARTICLE 16

### "F-P" FLOODPLAIN MANAGEMENT

**STATUTORY AUTHORIZATION:** The Legislature of the State of Kansas has in K.S.A. 12-741 et seq, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the governing body of the City of Lyndon ordains the following:

1. Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the City of Lyndon are subject to inundation which results in loss of life and 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.
2. General Causes of the Flood Losses. These flood losses are caused by:
  - a. The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and
  - b. The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

**INTENT AND PURPOSE OF DISTRICT:** It is the purpose of these regulations to promote the public health, safety, and general welfare; to minimize those losses described in Section 1, A; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4 by applying the provisions of these regulations to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

#### **GENERAL PROVISIONS:**

1. Lands to Which Regulations Applies. These regulations shall apply to all lands within the jurisdiction of the City of Lyndon identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) dated June 3, 1986 as amended, and Panel No. 6A of the FHBM for Osage County, dated August 9, 1977, and any future revisions thereto. In all areas covered by this ordinance, no

development shall be permitted except through the issuance of a floodplain development permit, granted by the Lyndon City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Section 5.

2. Compliance. No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of these or other applicable regulations.
3. Abrogation and Greater Restrictions. It is not intended by these regulations to repeal, abrogate (abolish), or impair any existing easements, covenants, or deed restrictions. However, where these regulations impose greater restrictions, the provisions of these regulations shall prevail. All other ordinances inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.
4. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.
5. Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside unnumbered A zones or land uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create a liability on the part of the City of Lyndon, any officer or employee thereof, for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made thereunder.
6. Severability. If any section, clause, provision, or portion of these regulations is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of the regulations shall not be affected thereby.

#### **ADMINISTRATION:**

1. Floodplain Development Permit. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 3, A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
2. Designation of Floodplain Administrator. The City of Lyndon Zoning Administrator shall be appointed by the mayor and approved by the City Council, in May of each year, to administer and implement the provisions of these regulations.

3. Duties and Responsibilities of the Floodplain Administrator. Duties shall include, but not be limited to:
  - a. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
  - b. Review of all applications for floodplain permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
  - c. Review of all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
  - d. Issue floodplain development permits for all approved applications;
  - e. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
  - f. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished; and
  - g. Where base flood elevation from other sources is utilized within unnumbered A zones:
    1. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
    2. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood-proofed;
    3. When flood-proofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.
4. Application for Floodplain Development Permit. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- a. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
- b. Identify and describe the work to be covered by the floodplain development permit;
- c. Indicate the use or occupancy for which the proposed work is intended;
- d. Indicate the assessed value of the structure and the fair market value of the improvement;
- e. Identify the existing base flood elevation and the elevation of the proposed development;
- f. Give such other information as reasonably may be required by the floodplain administrator;
- g. Be accompanied by plans and specifications for proposed construction; and
- h. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

#### **PROVISIONS FOR FLOOD HAZARD REDUCTION:**

##### 1. General Standards:

- a. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.
- b. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
- c. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  1. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. Construction with materials resistant to flood damage;

3. Utilization of methods and practices that minimize flood damages;
  4. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  5. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
  6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - a. All such proposals are consistent with the need to minimize flood damage;
    - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - d. All proposals for development, including proposals for manufactured home park and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
- d. Storage, material, and equipment.
1. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  2. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.
- e. Nonconforming Use.
1. A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:
    - a. If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to these regulations.

- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

2. Specific Standards:

- a. In all areas of special flood hazard, once base flood elevation date is obtained, as set forth in Section 5, A(2), the following provisions are required:

- 1. Residential Construction:

New construction or substantial-improvement of any residential building, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood level. *The elevation of the lowest floor shall be certified by a licensed land surveyor.*

- 2. Non-Residential Construction:

New construction or substantial-improvement of any commercial, industrial, or other non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood level, or together with attendant utility and sanitary facilities, be floodproofed so that below the base flood 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 the 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 floodplain administrator as set forth in Section 4, C7c. *The elevation of the lowest floor shall be certified by a licensed land surveyor.*

- 3. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that 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; and

- b. 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.
- b. In all areas of special flood hazard, once floodway data is obtained, as set forth in Section 5, A2, the following provisions are required:
  - 1. The designated floodway shall be used on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one foot at any point; and
  - 2. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated 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.

### 3. MANUFACTURED HOMES

- a. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that 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.
- b. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM on sites:
  - 1. Outside of manufactured home park or subdivision;
  - 2. In a new manufactured home park or subdivision;
  - 3. In an expansion to and existing manufactured home park or subdivision; or
  - 4. An existing manufactured home park or subdivision on which a manufactured home has incurred "substantial-damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. *The elevation of the lowest floor shall be certified by a licensed land surveyor.*
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on

the community's FIRM, that are not subject to the provisions of Section 5, C(2) of this ordinance, be elevated so that either:

1. The lowest floor of the manufactured home is a minimum of one foot above the base flood level; or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

#### 4. RECREATIONAL VEHICLES

- a. Require that recreational vehicles placed on sites within unnumbered A zones on the community's FIRM either:
  1. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use\*; or
  2. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

\*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.

### **FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES:**

#### 1. ESTABLISHMENT OF APPEAL BOARD

The Lyndon Planning Commission, as established by the City of Lyndon, shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

#### 2. RESPONSIBILITY OF APPEAL BOARD

- a. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the floodplain administrator, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Section 6, A.
- b. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.

#### 3. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

#### 4. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeals Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

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

#### 5. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

- a. 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 2 through 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.

- b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.
- c. Variances shall not be issued within any designated floodway if **any** increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variance shall only be issued upon:
  - 1. A showing of good and sufficient cause,
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. A community shall notify the applicant in writing over the signature of a community official that:
  - 1. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amount as high as \$25 for \$100 of insurance coverage; and
  - 2. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

**PENALTIES FOR VIOLATION:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred (500) dollars or by imprisonment for not more than six (6) months for each offense or by both such fine and imprisonment, 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 shall prevent the City of Lyndon or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

**AMENDMENTS:** The regulations, restrictions, and boundaries set forth in this ordinance 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 of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Lyndon. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of FEMA. The regulations of this ordinance are in compliance with the NFIP regulations.

**DEFINITIONS:** Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give the same meaning they have in common usage and to give these regulations the most reasonable application.

**“100-year Flood”**, see “base flood”.

**“Accessory Structure”** means the same as “appurtenant structure”.

**“Actuarial Rates”**, see “risk premium rates”.

**“Administrator”** means the Federal Insurance Administrator.

**“Agency”** means the Federal Emergency Management Agency (FEMA).

**“Appeal”** means a request for review of the floodplain administrator’s interpretation of any provision of this ordinance or a request for a variance.

**“Appurtenant Structure”** means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

**“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.

**“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 subgrade (below ground level) on all sides.

**“Building”**, see “structure”.

**“Chief Executive Officer” or Chief Elected Official”** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**“Community”** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**“Development”** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**“Elevated Building”** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**“Eligible Community”** or **“Participating Community”** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**“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 (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**“Flood Hazard Boundary Map (FHBM)”** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

**“Flood Insurance Rate Map (FIRM)”** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**“Floodplain”** or **“Flood-prone Area”** means any land area susceptible to being inundated by water from any source (see “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 floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

**“Floodproofing”** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**“Functionally Dependent Use”** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**“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 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.

**“Lowest Floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of 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 floodproofing design requirements of these regulations.

**“Manufactured Home”** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached 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.

**“Map”** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

**“Market Value”** or **“Fair Market Value”** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**“Mean Sea Level”** means, for purposes of the National Flood Insurance Program (NFIP), 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 (FIRM) are referenced.

**“New Construction”** means, for the purposes 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 the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**“(NFIP)”** means the National Flood Insurance Program.

**“Participating Community”** also known as an “eligible community”, means a community in which the Administrator has authorized the sale of flood insurance.

**“Person”** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**“Principally Above Ground”** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**“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;
4. designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**“Remedy A Violation”** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**“Risk Premium Rates”** means 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 National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. “Risk premium rates” include provisions for operating costs and allowances.

**“Special Flood Hazard Area”**, see “area of special flood hazard”.

**“Special Hazard Area”** means an area having special flood hazards and shown on an FHBM or FIRM as zones (unnumbered or numbered) A, AO, AE, or AH.

**“Start of Construction”** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were 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 slabs or footings, the installation of piles, the construction of columns, any work beyond the state 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, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor 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.

**“State Coordinating Agency”** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in the State of Kansas.

**“Structure”** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. “Structure” for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**“Substantial-Damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-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 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 that 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”.

**“Variance”** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**“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 by this ordinance is presumed to be in violation until such time as that documentation is provided.