

## DIVISION II. FLOODPLAIN OVERLAY DISTRICT

### Sec. 5.100. Statutory authorization.

The Legislature of the State of Missouri has in RSMo 89.020 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of the City of Lee's Summit, Missouri ordains as follows.

### Sec. 5.110. Findings of fact.

- A. Flood losses resulting from periodic inundation. The special flood hazard areas of the City are subject to inundation that 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.
- B. General causes of these flood losses. These flood losses are caused by:
1. The cumulative effect of obstruction in floodways causing increases in flood heights and velocities; and
  2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.
- C. Methods used to analyze flood hazards. The Flood Insurance Study (FIS) that is the basis of this division of the UDO uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.
1. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this division of the UDO is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this division of the UDO. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any given year, as delineated on the Federal Insurance Administrator's Flood Insurance Study (FIS), and illustrative materials for Jackson County, Missouri dated December 7, 2023 as amended, and any future revisions thereto.
  2. Calculation of water surface profiles based upon a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
  3. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
  4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increases in flood height.
  5. Delineation of the floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

(Ord. No. 9782, § 4, 11-14-2023)

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### Sec. 5.120. Statement of purpose.

It is the purpose of this division to promote the public health, safety and general welfare; to minimize those losses described above to establish or maintain the City'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(d) by applying the provisions of this division to:

- A. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause increased flood heights or velocities;
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;
- C. Protect individuals from buying lands that are unsuited for intended purposes due to the flood hazard; and
- D. Assure that eligibility is maintained for property owners in the City to purchase flood insurance in the Federal Flood Insurance Program.

### Sec. 5.130. Definitions.

The following definitions shall apply to the Floodplain Overlay District:

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).

Agricultural commodities means agricultural products and livestock.

Agricultural structure means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

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-principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard, also known as Special Flood Hazard Area (SPHA), is the land in the floodplain within the City 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 structure 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 City who is charged with the authority to implement and administer laws, ordinances, and regulations for the City.

City means the City of Lee's Summit, which is the designated authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Compensatory storage means creating new flood storage capacity on the property that offsets any loss of flood storage capacity due to fill or construction.

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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 the City.

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).

Fill means placement of any material in the special flood hazard area (SFHA) that raises the ground surface elevation.

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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 boundary and floodway map (FBFM) means an official map of the City on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards.

Flood fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM) means an official map of the City, 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 the City, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the City.

Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

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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.

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.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain 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 bridge openings and the hydrological effect of urbanization of the watershed.

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.

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: (a) 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; (b) 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; (c) 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 (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the Secretary of the Interior, or (2) 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 this ordinance.

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), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

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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 the City'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 the City 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 lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the City.

NFIP means the National Flood Insurance Program (NFIP).

No Rise means no increase (0.00') to the water surface elevation in the regulatory floodplain because of fill or construction.

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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 (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) 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.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Risk premium rates means those rates established by the Administrator pursuant to individual City 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 (SFHA). See area of special flood hazard.

Special hazard area means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

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 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, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, 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.

State Coordinating Agency means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

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 its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term includes repetitive loss buildings (see definition).

For the purposes of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions,
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure," or
- (3) Any improvement to a building.

Substantial improvement means any combination of reconstruction, alteration, or improvement to a building, taking place during a ~~ten~~five-year period, in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions,
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure," or
- (3) Any building that has been damaged from any source or is categorized as repetitive loss.

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Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief by the City 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 City.

Violation means the failure of a structure or other development to be fully compliant with the City'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.

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 floodplain.

#### **Sec. 5.140. General provisions.**

- A. Land to which ordinance applies. This division shall apply to all lands within the jurisdiction of the City identified as numbered and unnumbered A zones and AE zones on the flood insurance rate map (FIRM) for Jackson County on map panels 29095C0294G, 29095C0313G, 29095C0314G, 29095C0404G, 29095C0407G, 29095C0408G, 29095C0409G, 29095C0411G, 29095C0412G, 29095C0413G, 29095C0414G, 29095C0416G, 29095C0417G, 29095C0418G, 29095C0419G, 29095C0430G, 29095C0435G, 29095C0436G, 29095C0437G, 29095C0438G, 29095C0439G, 29095C0441G, 29095C0445G, 29095C0526G, 29095C0530G, 29095C0531G, 29095C0532G, 29095C0535G, 29095C0551G, 29095C0552G, and 29095C0553G, dated January 20, 2017 as amended, and any future revisions thereto. In all areas covered by this division, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Governing Body or its duly designated representative under such safeguards and restrictions as the Governing Body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the City, and as specifically noted in Article 2.
- B. Floodplain Administrator. The City Engineer is hereby designated as the Floodplain Administrator under this ordinance.
- C. Compliance. No development located within the special flood hazard areas of this City shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
- D. Abrogation and greater restrictions. It is not the intent of the Floodplain Overlay District to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where the Floodplain Overlay District imposes greater restrictions, the provision of this division shall prevail. All other provisions inconsistent with this division are hereby repealed to the extent of the inconsistency only.
- E. Interpretation. The interpretation and application of the provisions of the Floodplain Overlay District shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- F. Warning and disclaimer of liability. The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study; however, larger floods may occur and flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. The Floodplain Overlay District does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within these districts will be free from flooding or flood damage. This District shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this division or any administrative decision lawfully made thereunder.

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- G. Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

**Sec. 5.150. Administration.**

- A. Floodplain Development Permit required. A floodplain development permit shall be required for all proposed construction or other development, including placement of manufactured homes, in the areas described in Article 15. 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.-
- B. Designation of Floodplain Administrator. The City Engineer is hereby appointed to administer and implement the provisions of this ordinance.
- C. Duties and responsibilities of Floodplain Administrator. Duties of the City Engineer, acting as the Floodplain Administrator, shall include, but not be limited to:
1. 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;
  2. Review of all applications for floodplain development 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;
  3. Review 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;
  4. Issue floodplain development permits for all approved applications;
  5. Notify adjacent communities and the Missouri State Emergency Management Agency (Mo. SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
  6. Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.
  7. 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;
  8. 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 floodproofed;
  9. When floodproofing techniques are utilized for a particular non-residential structure, the City Engineer~~Engineer~~Floodplain Administrator shall require certification from a registered professional engineer or architect.
  10. Require increased floodplain management standards, as deemed necessary, to protect life and property.
- D. Application for floodplain development permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every floodplain development permit application shall:
1. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;



2. Identify and describe the work to be covered by the permit for which application is made;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Be accompanied by plans and specifications for proposed construction;
8. Be signed by the permittee or his authorized agent, who may be required to submit evidence to indicate such authority;
9. Be accompanied by elevations (in relation to mean sea level) of the lowest floor (including basement) or in the case of floodproofed non-residential structures, the elevation to which it has been floodproofed; and
10. Give such other information as reasonably may be required by the City Engineer.

#### Sec. 5.160. Establishment of zoning districts.

The mapped floodplain areas within the jurisdiction of the City are hereby divided into the two following districts: A floodway overlay district (FW) and floodway fringe overlay district (FF) identified in the flood insurance study and shown on the flood insurance rate maps. The boundaries of these districts shall become part of the official zoning map. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A zones and AE zones as identified on the official FIRM and identified in the flood insurance study provided by the Federal Insurance Administration.

#### Sec. 5.170. Standards for flood hazard reduction in floodway and floodway fringe overlay districts.

In all areas of special flood hazards (floodway and floodway fringe), the following standards must be met:

A. General standards.

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones and AE zones, unless the conditions of this section are satisfied. In addition:
  - a. Any fill placed in the regulatory floodplain with the intent of removing a new or existing structure from the regulatory floodplain is required to comply with FEMA's technical bulletin TB-10 (current version).
  - b. Unless deemed unnecessary by the Floodplain Administrator, a No Rise Certificate is required for any fill placed in the regulatory floodway fringe and a Letter of Map Revision is required for any fill placed in the regulatory floodway.
2. 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 City shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.

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3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City.
  4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
    - a. 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;
    - b. Construction with materials resistant to flood damage;
    - c. Utilization of methods and practices that minimize flood damages;
    - d. 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;
    - e. 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
    - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
      - (1) All such proposals are consistent with the need to minimize flood damage;
      - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
      - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
      - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.
  5. Storage, material, and equipment:
    - a. 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.
    - b. 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.
  6. Accessory structures: Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided:
    - a. There is no human habitation or occupancy of the structure;
    - b. The structure is of single-wall design;

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- c. A variance has been granted from the standard floodplain management requirements of this ordinance; and
  - d. A floodplain development permit has been issued.
7. Hazardous materials: All hazardous material storage and handling sites shall be located out of the floodplain.
8. Cumulative improvement: A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed 50 percent of the structure's current market value. If the cumulative value of the improvement exceeds 50 percent of the structure's current market value, the structure must be brought into compliance with Section 5.170.B.1.7, ~~which requires elevation of residential structures to or above the base flood elevation, or the elevation/floodproofing of non-residential structures to or above the base flood elevation.~~
9. Critical facilities:
- a. All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the 500-year flood level or together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level the structure is water tight 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 the National Flood Insurance Program (NFIP) regulations.
  - b. All critical facilities shall have access routes that are above the elevation of the 500-year flood.
10. Agricultural structures: Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.
- B. Specific standards.
1. In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data have been provided, as set forth in Section 5.170.A.2., the following provisions are required:
- a. Residential construction: New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement and all mechanical, electrical, and/or other utility equipment, elevated to at least two feet (2.00') above the base flood elevation.
  - b. Non-residential construction: New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to at least two feet (2.00') above

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the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation 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 Floodplain Administrator as set forth in Section 5.150.C.9.

- c. 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:
- (1) 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
  - (2) 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.

C. Manufactured homes.

1. All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones, on the City's FIRM 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.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones, on the City's FIRM on sites:
  - a. Outside of manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to and existing manufactured home park or subdivision; or
  - d. In 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 to at least two feet (2.00') above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones and AE zones, on the City's FIRM, that are not subject to the provisions of Subsection C.2. of this section, be elevated so that either:
  - a. The lowest floor of the manufactured home is at least two feet (2.00') above the base flood level; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 24 inches in height above

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grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- D. Floodway. Located within areas of special flood hazard established in Section 5.140.A. are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:
1. The City shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.
  2. The City shall prohibit any encroachments, 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 City during the occurrence of the base flood discharge.
  3. If Section 5.170.D.2. is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 5.170.
  4. In unnumbered A zones, the City shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in Section 5.170.A.2.
- E. Recreational vehicles. Recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the City's FIRM shall be either:
1. Be on the site for fewer than 180 consecutive days,
  2. Be fully licensed and ready for highway use\*; or
  3. Meet the permitting, elevation, 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.

(Ord. No. 10040, § 4(Exh.), 12-17-2024)

#### **Sec. 5.180. FW Floodway Overlay District.**

- A. Permitted uses. Only uses having a low flood-damage potential and not obstructing flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other sections of this chapter and provided they do not require structures, fill or storage of materials or equipment. No use shall increase the flood levels of the regulatory flood elevation.
- B. Uses within specified districts. The following uses are permitted where the uses are also permitted by the appropriate zoning district:
1. Agricultural uses such as general farming, pasture, nurseries, forestry;
  2. Residential uses such as lawns, gardens, parking and play areas;
  3. Non-residential areas such as loading areas, parking, airport landing strips; and
  4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

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(Supp. No. 15, Update 1)

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**Sec. 5.190. FF Floodway Fringe Overlay District.**

- A. Permitted uses. Any use permitted in Section 5.220, Nonconforming use, shall be permitted in the Floodway Fringe Overlay District. Other uses that are permitted by the appropriate zoning district shall be permitted subject to the standards set forth in Section 5.170.

**Sec. 5.200. Certification and information.**

- A. Flood proofing. Applicants for a development permit for a flood-proofed structure shall provide certification by a registered professional engineer or architect that the flood proofing plans are adequate to be water tight with walls impermeable to the passage of water and withstand the hydrostatic and hydrodynamic forces associated with the 100-year flood.
- B. Flood proofing approval. Flood proofing of residential structures will not be allowed unless an exception is specifically granted from the provisions of this ordinance by the Administrator of the Federal Insurance Administration.
- C. Elevation of property. The applicant shall provide information identifying the elevation of the property in relation to mean sea level of the lowest floor (including the basement of the proposed structure) to which structures are flood proofed. In addition, the applicant shall provide this information for the second lowest floor when the lowest floor is below grade on one or more sides.
- D. Records. The City Engineer will maintain the records of certification when issuing development permits in conformance with this section.

**Sec. 5.210. Floodplain management variance procedures.**

- A. Establishment of Appeal Board. The Board of Zoning Adjustment as established by the City of Lee's Summit shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.
- B. Responsibility of Appeal Board.
1. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the City Engineer, the applicant may apply for such floodplain development permit or variance directly to the Board of Zoning Adjustment, as defined in Section 5.210.A.
  2. The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance.
- C. Further appeals. Any party aggrieved by the decision of the Board of Zoning Adjustment or any taxpayer may appeal such decision to the Jackson County Circuit Court as provided in RSMo 89.110.
- D. Floodplain management variance criteria. In passing upon such applications for variances, the Board of Zoning Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:
1. The danger to life and property due to flood damage;
  2. The danger that materials may be swept onto other lands to the injury of others;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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4. The importance of the services provided by the proposed facility to the City;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations, not subject to flood 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 floodplain 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, 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, electrical, and water systems; streets; and bridges.

E. Conditions for approving floodplain management 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 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.
2. 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 provided the proposed activity will not preclude the structures continued historic designation.
3. Variances shall not be issued within any designated 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.
  - a. A showing of good and sufficient cause,
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - c. 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. The City shall notify the applicant in writing over the signature of a City official that:
  - a. The issuance of a variance to construct a structure below base flood level will result in increased annual premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage,
  - b. Such construction below the base flood level increases risks to life and property, and
  - c. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

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- F. Conditions for approving variances for accessory structures. Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 5.210.D. and E. of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the City's flood insurance rate map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 5.170.A.4.b. of this ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 5.170.A.4.a. of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 5.170.A.4.d. of this ordinance.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 5.170.B.1.c. of this ordinance.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 5.170.D.2. of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. The City shall notify the applicant in writing over the signature of a City official that:
  - a. The issuance of a variance to construct a structure below base flood level will result in increased annual premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
  - b. 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.
10. Wet-floodproofing construction techniques must be reviewed and approved by the City and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

- G. Conditions for approving variances for agricultural structures. Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 5.210.D. and E. of this ordinance.



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In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the City's flood insurance rate map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 5.170.A.4.b. of this ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 5.170.A.4.a. of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 5.170.A.4.d. of this ordinance.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 5.170.B.1.c. of this ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 5.170.D.2. of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. The City shall notify the applicant in writing over the signature of a City official that:
  - a. The issuance of a variance to construct a structure below base flood level will result in increased annual premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
  - b. 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.
11. Wet-floodproofing construction techniques must be reviewed and approved by the City and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

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#### **Sec. 5.220. Nonconforming use.**

- A. A structure or the use of a structure or premises that was lawful before the effective date of passage or amendment of this ordinance, but that is not in conformity with the provisions of this division may be continued subject to the following instructions:
1. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in a way that increases its nonconformity.
  2. If the use is discontinued for three consecutive months, any future use of the building premises shall conform to this ordinance. The Water Utilities Department shall notify the City Engineer in writing of instances of legal nonconforming uses where utility services have been discontinued for a period of three months.
  3. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- B. If any legal 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 market value of the structure before the damage occurred, except if it is reconstructed in conformity with the provisions of this ordinance. 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, or local inventory of historic places upon determination.

#### **Sec. 5.230. 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 pursuant to Article 2, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the hearing shall be provided pursuant to Article 2. The regulations of this division are in compliance with the National Flood Insurance Program Regulations.

#### **Sec. 5.240. Floodplain development permit—When required.**

No person shall initiate any development within floodway and floodway fringe overlay districts or cause development to be undertaken therein without first obtaining a separate floodplain development permit for each building, structure or other development, pursuant to the requirements set forth in Section 5.190, FF Floodway Fringe Overlay District, of this chapter.

#### **Sec. 5.250. Penalties for ~~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 this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, 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 of Lee's Summit or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. In Addition, the City ~~my~~may seek injunctive relief through civil remedies to mitigate development performed on land in FW and FF overlay districts without approved permits or in violation of Article 5, Division II of this ordinance.

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**Sec. 5.260. Floodplain development permit—Appeals.**

The applicant may appeal the non-issuance of a floodplain development permit, and a permit holder may appeal the revocation of a floodplain development permit, to the Board pursuant to Article 2, Division VII, Board of Zoning Adjustment.

**Secs. 5.270—5.300. Reserved.**