



CITY OF
TOPEKA



Proposed Amendment of the Floodplain
Ordinance
Chapter 17 of the Topeka Municipal Code

Amending Regulation is in conjunction with the City
joining Community Rating System

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Insurance Service Office administer the Community Rating System (CRS) for FEMA as part of National Flood Insurance Program.

Communities that are members of CRS receive discounts on their flood insurance premiums.

The discount is based on points that the community receives for its floodplain program.

Areas where points are assigned

- Public information
- Mapping and Regulations
- Flood Damage Reduction
- Warning and Response



Prerequisites to Participate

1. In regular Phase of NFIP for a least one year
2. In Full compliance with NFIP minimum criteria
3. Maintain and correct construction certificates
4. Assessment/mapping of repetitive loss areas
5. Maintain all flood insurance policies required for community-owned buildings



Community Action Visit

- Review Properties in the floodplain

- Review Floodplain Ordinance

- Evaluate compliance with regulations

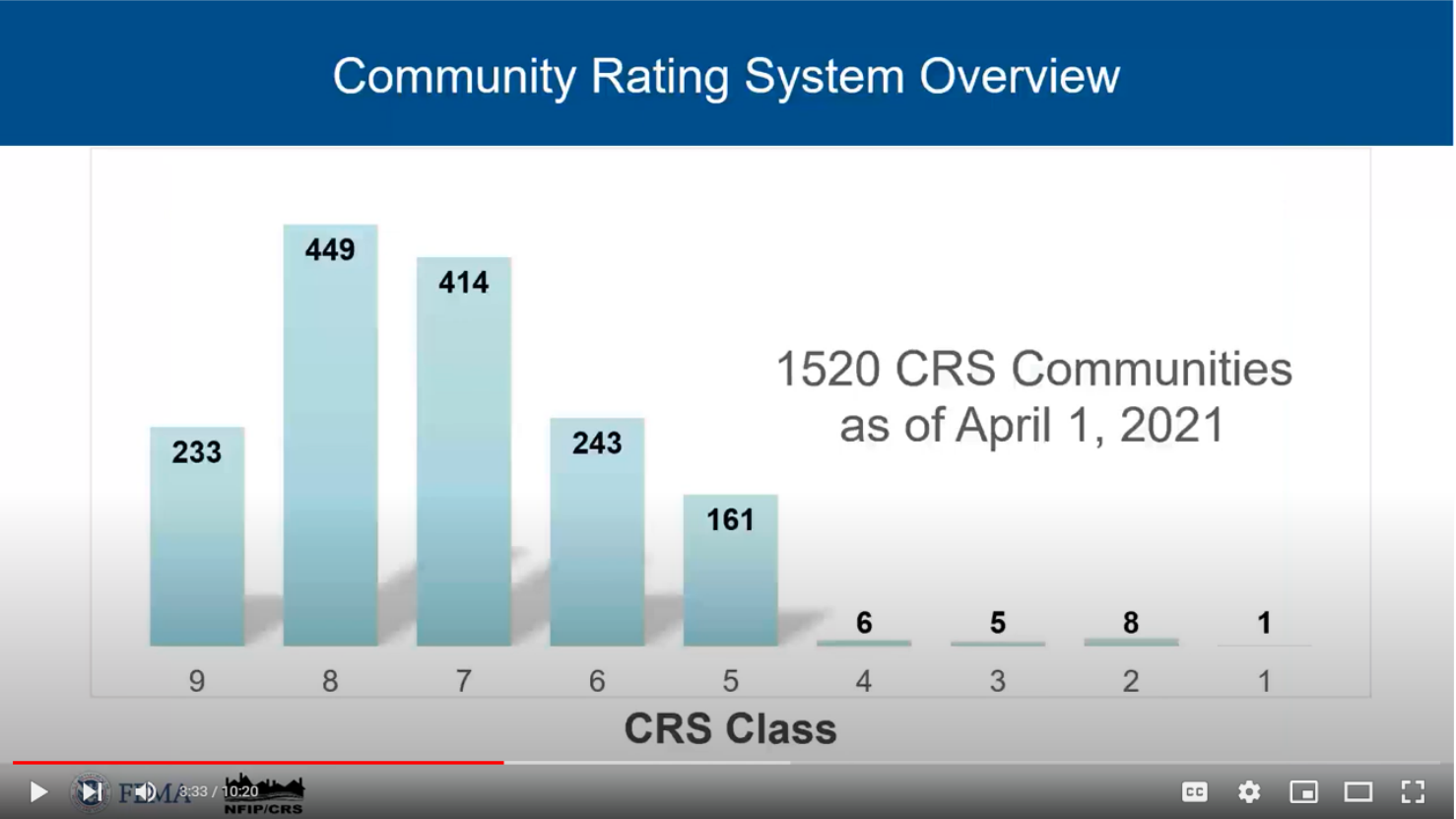
Existing Ordinance

- Last time updated

Proposed Ordinance Amendment

- Reviewed by the state





CRS Overview - June 2021

Our current points will bring us in at a level 8, if we continue to improve our process we can improve our level.



Notable Changes

- Accessory Structures do not have to meet the same regulations as the primary structure.
- Critical Facilities have to be elevated even if they are in the a lower risk flood zone
- Establishing cumulative value for substantially improvement
- Allowing encroachment into the floodway that will increase the flood elevation if approved by FEMA



Explanation of changes
Less restrictive Neutral More restrictive

<p><u>Line 38</u> <u>“Base flood elevation” means the elevation of the surface of the water during a one percent annual chance flood event.</u></p>	New definition (Neutral)
<p>Line 90 “Flood elevation study” means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.</p>	Revised definition (Neutral)
<p>Line 157 “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” <u>includes mobile homes manufactured prior to 1976 but does not include a “recreational vehicle.”</u></p>	Revised Definition (Neutral)
<p>“Mean sea level” means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic<u>American Vertical Datum (NGAVD) of 1929</u>1988 or other datum, to which base flood elevations shown on a community’s flood insurance rate map (FIRM) are referenced.</p>	Revised Definition (Neutral)
<p><u>Line 187</u> <u>“Numbered A Zone” means a special flood hazard area where the Flood Insurance Rate Map shows the base flood elevation.</u></p>	New Definition (Neutral)
<p><u>Line 189</u> <u>One percent annual chance flood. See "Base flood."</u></p>	New Definition (Neutral)
<p><u>Line 221</u> “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 was<u>were</u> 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</p>	Revised Definition (Neutral)

Explanation of changes
 Less restrictive Neutral More restrictive

<p>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.</p>	
<p><u>Line 240</u> “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, or a travel trailer without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or</p>	<p>Revised Definition (Neutral)</p>
<p><u>Line 263</u> <u>“Unnumbered A Zone” means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not shown.</u></p>	<p>New Definition (Neutral)</p>
<p><u>Line 266</u> “Variance” means a grant of relief by the community<u>Board of Zoning Appeals</u> 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.</p>	<p>Revised Definition (Neutral)</p>
<p><u>Line 274</u> “Water surface elevation” means the height, in relation to the National Geodetic<u>American Vertical Datum (NGAVD)</u> of 1929<u>1988</u> (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.</p>	<p>Revised Definition (Neutral)</p>
<p><u>Line 280</u> <u>Violations; Penalties for violation of chapter</u></p>	<p>Title Change (Neutral)</p>
<p><u>Line 281</u> (a) <u>The Floodplain Administrator may make reasonable entry upon any lands and waters in Topeka for the purpose of making an investigation, inspection or</u></p>	<p>Clarification on enforcement of regulation (Neutral) The previous version of the ordinance allowed us to pursue violations, it just did not spell</p>

Explanation of changes
Less restrictive Neutral More restrictive

<p><u>survey to verify compliance with these regulations. The Floodplain Administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the Floodplain Administrator shall affix a copy of the notice to one or more conspicuous places on the property a minimum of five (5) days prior to entry.</u></p> <p>(b) <u>A structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation until such documentation is provided.</u></p> <p>(c) <u>The Floodplain Administrator shall provide written notice of a violation of this ordinance to the owner, the owner's agent, lessee, or lessee's agent by personal service or by certified mail, return receipt requested. The written notice shall include instructions and a deadline to request a hearing before the Board of Zoning Appeals, and if no hearing is requested, a deadline by which the violation must be corrected.</u></p>	<p>out how we should pursue the violation. This section is describing how we presently pursue violations.</p>
<p><u>Line 307</u></p> <p>1. <u>Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, if the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the period specified, the Floodplain Administrator or designee shall abate or remove the conditions causing the violation.</u></p> <p>2. <u>If the Floodplain Administrator or designee abates or removes the nuisance pursuant to this section, notice shall be provided to the owner, the owner's agent, lessee, or lessee's agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred. The notice shall also state that the payment is due within 30 days following receipt of the notice. The cost of providing notice, including any postage, required by this section may also be recovered.</u></p> <p>3. <u>The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as a special assessment and charged</u></p>	<p>Clarification on enforcement process (More Restrictive)</p>

against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

Line 331

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 of the public.

Line 352

(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 chapter is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this chapter. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the current effective Federal Insurance Administrator's FIS, and illustrative materials documented in the interior drainage area maps of the Topeka levee certification package, and any future revisions thereto, and illustrative materials dated September 29, 2011, as amended and any future revisions thereto.

Line 374

Lands to which this chapter applies.

~~(a)~~ This chapter shall apply to all lands within the jurisdiction of the City of Topeka, Kansas, identified as numbered and unnumbered A zones, AE, AO, and AH zones, on flood insurance rate map (FIRM) panels ~~released~~ referenced on the associated FIRM Index dated September 29, 2011, as amended, and any future

Clarification of statement (Neutral)

Statement added to include the current floodplain map. (Neutral)

Clarification of Statement (Neutral)

revisions thereto; and the designated AH zones illustrated as interior drainage area floodplains (or levee ponding areas) in the interior drainage area maps of the Topeka levee certification package or any other work map areas designated by the City of Topeka that can be considered best available data. This chapter shall also apply to all locations with a Letter of Map Revision – Fill (LOMR-F).In all areas covered by this chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the ~~City Manager~~Floodplain Administrator or designee under such safeguards and restrictions as ~~are necessary~~may reasonably be imposed for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in ~~Article III of this chapter~~TMC 17.30.180.

~~(b) In addition, this chapter shall also apply to those lands which, based on the most accurate information available to the Development Services Director, fall within the ultimate 100-year floodplain.~~

Line 394

Interpretation.

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements to protect the health and safety of the public and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

Clarification of statement (Neutral)

Line 400

Floodplain development permit.

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes or mobile homes, in the areas described in TMC 17.30.070. 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.

Requiring that mobile homes get floodplain development permit (Neutral)

Line 439

If such structure, use, or utility service has been or is discontinued for 12 consecutive months, any future use of the building shall conform to this chapter.

Clarification of section (Neutral)

Explanation of changes
Less restrictive Neutral More restrictive

<p><u>Line 454</u> AE, AO, and AH zones, unless the conditions of this article<u>section</u> are satisfied.</p> <p><u>Line 456</u> inundation of the <u>one percent annual chance or 100-year</u> flood; however, the base flood</p> <p><u>Line 458</u> provisions of this chapter. If flood insurance study data is not available, the f<u>Floodplain a</u>Administrator shall obtain, review, and reasonably utilize any base flood elevation or</p> <p><u>Line 490</u> (g) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured <u>or mobile</u> homes, and other developments shall require:</p> <p><u>Line 502</u> (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 from them during flooding; and</p> <p><u>Line 517</u> (iv) All proposals for development, including proposals for manufactured home parks and subdivisions, of <u>greater than five (5) acres or fifty (50) lots</u>, whichever is lesser, include within such proposals base flood elevation data.</p> <p><u>Line 521</u> 4. 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. 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.</p> <p><u>Line 526</u> (i) <u>Accessory Structures: Structures used solely for parking and limited storage purposes, not</u></p>	<p>Correct wording (Neutral)</p> <p>Providing additional information (Neutral)</p> <p>Correct wording (Neutral)</p> <p>Add mobile home to requirement (Neutral)</p> <p>Correct wording (Neutral)</p> <p>Clarifying statement (Neutral)</p> <p>Clarifying what can be stored in flood zones (Less Restrictive)</p>
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Explanation of changes

Less restrictive Neutral More restrictive

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 there is no human habitation or occupancy of the structure; the structure is of single-wall design; the accessory structure meets the following floodplain management requirements; and a floodplain development permit has been issued. Wet-floodproofing is only allowed for small low cost structures. Any permit granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Permits shall meet the following conditions. In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be required for any permit 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 any special flood hazard area as identified on the community'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 TMC 17.30.180(g)(2).
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with TMC 17.30.180(g)(2). 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

Establishes requirements for accessory structures in flood zones (Less Restrictive) Accessory structures previously had to comply with the same regulations as the principal structure.

Explanation of changes

Less restrictive Neutral More restrictive

5. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with TMC 17.30.190(a)(3).
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of TMC 17.30.220(b) of this ordinance. No permits 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. Wet-floodproofing construction techniques must be reviewed and approved by the Floodplain Administrator or designee. The Floodplain Administrator or designee may request approval by a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. Cost for any required professional certification shall be paid by the developer.

Line 578

j Critical Facilities: 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 at least one (1) foot above the .2 percent annual chance flood event, also referred to as the 500-year

Establish requirements for critical facilities in flood zones (More Restrictive) Structures in 0.2% or the 500-year flood zone are not required to follow floodplain regulations but they are requiring critical facilities to follow them.

Explanation of changes
Less restrictive Neutral More restrictive

flood level or together with attendant utility and sanitary facilities, be floodproofed so that below a minimum of one (1) foot above 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 verify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in TMC 17.30.140(i).

- 1 All critical facilities shall have access routes that are above the elevation of the 500-year flood.
- 2 No critical facilities shall be constructed in any designated floodway.

Line 596

- K Hazardous Materials: All hazardous material storage and handling sites shall be located out of the special flood hazard area.

Line 598

- L 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 ten (10) calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds fifty (50) percent of the structure's current market value, the structure must be brought into compliance with TMC 17.30.190 which requires elevation of residential structures to one (1) foot above the base flood elevation or the elevation/floodproofing of non-residential structures to one (1) foot above the base flood elevation.

Line 610

- (a) In all areas identified as numbered and unnumbered A zones, AE zones,

Line 613

- (1) Residential Construction. New construction or substantial improvement of any residential structures,

Prohibiting hazardous materials in flood zones (Neutral) This has been relocated from another area in the code, line 521

Establish a time frame for cumulative improvement (More Restrictive) Currently this is based on the cost of the improvement at the time of the permit. Proposed to include all improvements over last 10 years.

Clarify statement (Neutral)

Explanation of changes
Less restrictive Neutral More restrictive

<p>including manufactured <u>or mobile</u> homes, shall have the lowest floor, including basement, elevated a minimum of</p> <p><u>Line 616</u> one (1) foot above base flood elevation. <u>All mechanical and heating ventilation equipment to be elevated to same level of one (1) foot above the base flood elevation.</u> The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.</p> <p><u>Line 622</u> including manufactured <u>or mobile</u> homes, shall have the lowest floor, including</p> <p><u>Line 624</u> together with attendant utility and sanitary facilities, be dry floodproofed to a minimum of so that below one (1) foot above the base flood elevation <u>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.</u> <u>All mechanical and heating ventilation equipment to be elevated or protected to one (1) foot above the base flood elevation.</u> A registered professional engineer or architect shall certify <u>verify</u> that the standards of this subsection are satisfied. The elevation of</p> <p><u>Line 634</u> set forth in TMC 17.30.140(i). <u>Mechanical and HVAC equipment will be elevated or protected to same levels of freeboard above the base flood elevation.</u></p> <p><u>Line 653</u> Manufactured <u>or mobile</u> homes. (a) All manufactured <u>or mobile</u> homes to be placed within all unnumbered and numbered A <u>zones</u>, AE <u>zones</u>, and AH zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured <u>or mobile</u> homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.</p>	<p>Add mobile home to the requirement (Neutral)</p> <p>Require utility equipment to be elevated (Neutral) This has always been required just not listed out in this code</p> <p>Add mobile homes to the requirement so it is elevated (Neutral)</p> <p>Clarify what is meant by dry floodproofing is (Neutral)</p> <p>Require that utilities be elevated (Neutral) This has always been required just not listed out in this code</p> <p>Add mobile home to regulation and clarify wording (Neutral)</p>
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Explanation of changes

Less restrictive Neutral More restrictive

Line 662

(b) ~~Require m~~Manufactured or mobile homes that are placed or substantially improved within unnumbered or numbered A zones, AE zones, and AH zones, on the community's FIRM shall be placed only on the following sites:

(1) Outside of a manufactured home park or subdivision;

(2) In a new manufactured home park or subdivision;

(3) In an expansion to an existing manufactured home park or subdivision; or

(4) In an existing manufactured home park or subdivision on which a manufactured or mobile 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 (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. All mechanical and heating ventilation equipment to be elevated to same level of one (1) foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

Add mobile home to regulation, clarify wording and require utilities to be elevated (Neutral)

Line 678

(c) ~~Require that m~~Manufactured or mobile homes ~~to be~~that are placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE zones and AH zones, on the community's FIRM, that are not subject to the provisions of subsection (b) of this section, shall be elevated so that either:

~~(1) The lowest floor of the manufactured or mobile home is a minimum of one (1) 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 36 inches in height above grade and be securely~~

Add mobile home to regulation, clarify wording, require utilities to be elevated, and remove conflicting information on elevation. You may not have to elevate the home 3 feet if 2 feet or on 1 foot will put it 1 foot above the base flood elevation. (Neutral)

~~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 or professional engineer. Mechanical and HVAC equipment shall be elevated to the same level as the lowest floor.~~

Line 695

Areas of shallow flooding (AO and AH zones).

Located within the areas of special flood hazard as described in TMC 17.30.070 are areas designated as AO and AH zones. ~~These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.~~ The following provisions apply:

- (a) AO Zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

Line 704

- (1) All new construction and substantial improvements of residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's community FIRM (at least two feet if no depth number is specified) plus one (1) foot of freeboard. Mechanical and HVAC equipment shall be protected to the same level as the lowest floor.

Line 710

- (2) All new construction and substantial improvements of any commercial, industrial, or other nonresidential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's community FIRM (at least two feet if no depth number is specified) plus one (1) foot of freeboard or together with attendant utilities and sanitary facilities shall be completely floodproofed to that level so that the structure is watertight with walls

Clarify wording (Neutral)

Add mobile home to the regulation, clarify wording, and add elevate utilities (Neutral)

Add mobile home to the regulation, clarify wording, and add elevate utilities (Neutral)

Explanation of changes
Less restrictive Neutral More restrictive

substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Mechanical and HVAC shall be flood protected or elevated to the same freeboard level.

Line 747

(b) The Floodplain Administrator or designee may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the Floodplain Administrator or designee first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of 44 CFR 65.12, and receives the approval of FEMA.

Set out guideline for developing in the regulatory floodway that will increase the flood elevation, (Less Restrictive) allowing development in the floodway that will increase flood elevation

Line 827

(g) The Floodplain Administrator or designee shall maintain a record of all variance actions, including justification for their issuance.

Establishes record keeping requirements and when a variance can be issued (Neutral)

(h) Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items (a) through (e) of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(i) A community shall maintain a record of all variance actions, including justification for their issuance.

~~(i) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items a through e of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.~~

113 Credit Points and Credited Activities

To be recognized in the insurance rating system, local floodplain management activities must be described, measured, and evaluated by the CRS. The basic document detailing the program is the *CRS Coordinator's Manual*. It sets forth the procedures, creditable activities, and the credit points assigned to each activity, and gives examples of activities and how their credit is calculated.

113.a. Credit Points and Classification

A community receives a CRS classification based upon the total credit for its activities. There are 10 CRS classes. Class 1 requires the most credit points and gives the greatest premium reduction or discount. A community that does not apply for the CRS, or does not obtain the minimum number of credit points, is a Class 10 community and receives no discount on premiums. The qualifying community total points, CRS classes, and flood insurance premium discounts are shown in Table 110-1.

Table 110-1. CRS classes, credit points, and premium discounts.			
CRS Class	Credit Points (cT)	Premium Reduction	
		In SFHA	Outside SFHA
1	4,500+	45%	10%
2	4,000–4,499	40%	10%
3	3,500–3,999	35%	10%
4	3,000–3,499	30%	10%
5	2,500–2,999	25%	10%
6	2,000–2,499	20%	10%
7	1,500–1,999	15%	5%
8	1,000–1,499	10%	5%
9	500–999	5%	5%
10	0–499	0	0

SFHA: Zones A, AE, A1–A30, V, V1–V30, AO, and AH

Outside the SFHA: Zones X, B, C, A99, AR, and D

Preferred Risk Policies are not eligible for CRS premium discounts because they already have premiums lower than other policies. Preferred Risk Policies are available only in B, C, and X Zones for properties that are shown to have a minimal risk of flood damage.

Some minus-rated policies may not be eligible for CRS premium discounts.

Premium discounts are subject to change.

1
2 (Published in the Topeka Metro News _____)
3

4 ORDINANCE NO. _____
5

6 AN ORDINANCE introduced by City Manager Stephen Wade concerning floodplain
7 management, amending §§ 17.30.010 through 17.30.040,
8 17.30.070, 17.30.090, 17.30.150 through 17.30.220 and 17.30.240
9 through 17.30.260 of the Topeka Municipal Code and repealing
10 original sections.
11

12 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

13 Section 1. That section 17.30.010, Definitions, of The Code of the City of
14 Topeka, Kansas, is hereby amended to read as follows:

15 **Definitions.**

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

19 100-Year Flood. See “Base flood.”

20 “Accessory structure” means the same as “appurtenant structure.”

21 Actuarial Rates. See “Risk premium rates.”

22 “Administrator” means the Federal Insurance Administrator.

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

24 “Appeal” means a request for review of the Floodplain Administrator’s
25 interpretation of any provision of this chapter or a request for a variance.

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

29 “Area of shallow flooding” means a designated AO or AH zone on a community’s
30 flood insurance rate map (FIRM) with a one percent or greater annual chance of

31 flooding to an average depth of one to three feet where a clearly defined channel does
32 not exist, where the path of flooding is unpredictable and where velocity flow may be
33 evident. Such flooding is characterized by ponding or sheet flow.

34 “Area of special flood hazard” is the land in the floodplain within a community
35 subject to a one percent or greater chance of flooding in any given year.

36 “Base flood” means the flood having a one percent chance of being equaled or
37 exceeded in any given year.

38 “Base flood elevation” means the elevation of the surface of the water during a
39 one percent annual chance flood event.

40 “Basement” means any area of the structure having its floor subgrade (below
41 ground level) on all sides.

42 Building. See “Structure.”

43 “Chief Engineer” means the Chief Engineer of the Division of Water Resources,
44 Kansas Department of Agriculture.

45 “Chief executive officer” or “chief elected official” means the official of the
46 community who is charged with the authority to implement and administer laws,
47 ordinances, and regulations for that community.

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

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

55 “Elevated building” means, for insurance purposes, a nonbasement building
56 which has its lowest elevated floor raised above ground level by foundation walls, shear
57 walls, posts, piers, pilings, or columns.

58 “Eligible community” or “participating community” means a community for which
59 the Administrator has authorized the sale of flood insurance under the National Flood
60 Insurance Program (NFIP).

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

65 “Existing manufactured home park or subdivision” means a manufactured home
66 park or subdivision for which the construction of facilities for servicing the lots on which
67 the manufactured homes are to be affixed (including, at a minimum, the installation of
68 utilities, the construction of streets, and either final site grading or the pouring of
69 concrete pads) is completed before the effective date of the floodplain management
70 regulations adopted by a community.

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

75 “Flood” or “flooding” means a general and temporary condition of partial or
76 complete inundation of normally dry land areas from: (1) the overflow of inland waters;
77 (2) the unusual and rapid accumulation or runoff of surface waters from any source; and
78 (3) the collapse or subsidence of land along the shore of a lake or other body of water

79 as a result of erosion or undermining caused by waves or currents of water exceeding
80 anticipated cyclical levels or suddenly caused by an unusually high water level in a
81 natural body of water, accompanied by a severe storm, or by an unanticipated force of
82 nature, such as flash flood, or by some similarly unusual and unforeseeable event which
83 results in flooding as defined in subsection (1) of this definition.

84 “Flood boundary and floodway map (FBFM)” means an official map of a
85 community on which the Administrator has delineated both special flood hazard areas
86 and the designated regulatory floodway.

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

90 “Flood elevation study” means an examination, evaluation and determination of
91 flood hazards ~~and if appropriate, corresponding water surface elevations.~~

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

94 “Flood hazard boundary map (FHBM)” means an official map of a community,
95 issued by the Administrator, where the boundaries of the flood areas having special
96 flood hazards have been designated as (unnumbered or numbered) A zones.

97 “Flood hazard map” means the document adopted by the Governing Body
98 showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel;
99 and (5) other geographic features.

100 “Flood insurance rate map (FIRM)” means an official map of a community, on
101 which the Administrator has delineated both the special flood hazard areas and the risk
102 premium zones applicable to the community.

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

106 “Floodplain” or “flood-prone area” means any land area susceptible to being
107 inundated by water from any source (see “Flooding”).

108 “Floodplain management” means the operation of an overall program of
109 corrective and preventive measures for reducing flood damage, including but not limited
110 to emergency preparedness plans, flood control works, and floodplain management
111 regulations.

112 “Floodplain management regulations” means zoning ordinances, subdivision
113 regulations, building codes, health regulations, special purpose ordinances (such as
114 floodplain and grading ordinances) and other applications of police power. The term
115 describes such State or local regulations, in any combination thereof, that provide
116 standards for the purpose of flood damage prevention and reduction.

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

121 “Floodway” or “regulatory floodway” means the channel of a river or other
122 watercourse and the adjacent land areas that must be reserved in order to discharge
123 the base flood without cumulatively increasing the water surface elevation more than
124 one foot.

125 “Floodway encroachment lines” means the lines marking the limits of floodways
126 on Federal, State and local floodplain maps.

127 “Freeboard” means a factor of safety usually expressed in feet above a flood
128 level for purposes of floodplain management. “Freeboard” tends to compensate for the
129 many unknown factors that could contribute to flood heights greater than the height
130 calculated for a selected size flood and floodway conditions, such as bridge openings
131 and the hydrological effect of urbanization of the watershed.

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

137 “Highest adjacent grade” means the highest natural elevation of the ground
138 surface prior to construction next to the proposed walls of a structure.

139 “Historic structure” means any structure that is (a) listed individually in the
140 National Register of Historic Places (a listing maintained by the Department of the
141 Interior) or preliminarily determined by the Secretary of the Interior as meeting the
142 requirements for individual listing on the National Register; (b) certified or preliminarily
143 determined by the Secretary of the Interior as contributing to the historical significance
144 of a registered historic district or a district preliminarily determined by the Secretary to
145 qualify as a registered historic district; (c) individually listed on a state inventory of
146 historic places in states with historic preservation programs which have been approved
147 by the Secretary of the Interior; or (d) individually listed on a local inventory of historic
148 places in communities with historic preservation programs that have been certified
149 either (1) by an approved state program as determined by the Secretary of the Interior
150 or (2) directly by the Secretary of the Interior in states without approved programs.

151 “Lowest floor” means the lowest floor of the lowest enclosed area, including
152 basement. An unfinished or flood-resistant enclosure, usable solely for parking of
153 vehicles, building access, or storage, in an area other than a basement area, is not
154 considered a building’s lowest floor; provided, that such enclosure is not built so as to
155 render the structure in violation of the applicable floodproofing design requirements of
156 this chapter.

157 “Manufactured home” means a structure, transportable in one or more sections,
158 that is built on a permanent chassis and is designed for use with or without a permanent
159 foundation when attached to the required utilities. The term “manufactured home”
160 includes mobile homes manufactured prior to 1976 but does not include a “recreational
161 vehicle.”

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

164 “Map” means the flood hazard boundary map (FHBM), flood insurance rate map
165 (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the
166 Federal Emergency Management Agency (FEMA).

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

169 “Mean sea level” means, for purposes of the National Flood Insurance Program
170 (NFIP), the National ~~Geodetic~~American Vertical Datum (NGAVD) of ~~1929~~1988 or other
171 datum, to which base flood elevations shown on a community’s flood insurance rate
172 map (FIRM) are referenced.

173 “New construction” means, for the purposes of determining insurance rates,
174 structures for which the “start of construction” commenced on or after the effective date

175 of an initial FIRM or after December 31, 1974, whichever is later, and includes any
176 subsequent improvements to such structures. For floodplain management purposes,
177 “new construction” means structures for which the “start of construction” commenced on
178 or after the effective date of the floodplain management regulations adopted by a
179 community and includes any subsequent improvements to such structures.

180 “New manufactured home park or subdivision” means a manufactured home park
181 or subdivision for which the construction of facilities for servicing the lot on which the
182 manufactured homes are to be affixed (including at a minimum, the installation of
183 utilities, the construction of streets, and either final site grading or the pouring of
184 concrete pads) is completed on or after the effective date of floodplain management
185 regulations adopted by the community.

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

187 “Numbered A Zone” means a special flood hazard area where the Flood
188 Insurance Rate Map shows the base flood elevation.

189 One percent annual chance flood. See "Base flood."

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

192 “Permit” means a signed document from a designated community official
193 authorizing development in a floodplain, including all necessary supporting
194 documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other
195 necessary or applicable approvals or authorizations from local, State or Federal
196 authorities.

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

199 agencies.

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

202 “Reasonably safe from flooding” means base flood waters will not inundate the
203 land or damage structures to be removed from the SFHA and that any subsurface
204 waters related to the base flood will not damage existing or proposed buildings.

205 “Recreational vehicle” means a vehicle which is (a) built on a single chassis; (b)
206 400 square feet or less when measured at the largest horizontal projections; (c)
207 designed to be self-propelled or permanently able to be towed by a light-duty truck; and
208 (d) designed primarily not for use as a permanent dwelling but as temporary living
209 quarters for recreational, camping, travel, or seasonal use.

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

213 “Risk premium rates” means those rates established by the Administrator
214 pursuant to individual community studies and investigations, which are undertaken to
215 provide flood insurance in accordance with Section 1307 of the National Flood Disaster
216 Protection Act of 1973 and the accepted actuarial principles. “Risk premium rates”
217 include provisions for operating costs and allowances.

218 Special Flood Hazard Area. See “Area of special flood hazard.”

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

221 “Start of construction” includes substantial improvements, and means the date
222 the building permit was issued, provided the actual start of construction, repair,

223 reconstruction, rehabilitation, addition placement, or other improvements ~~was~~were
224 within 180 days of the permit date. The “actual start” means either the first placement of
225 permanent construction of a structure on a site, such as the pouring of slabs or footings,
226 the installation of piles, the construction of columns, any work beyond the stage of
227 excavation, or the placement of a manufactured home on a foundation. Permanent
228 construction does not include land preparation, such as clearing, grading and filling, the
229 installation of streets and/or walkways, excavation for a basement, footings, piers,
230 foundations, the erection of temporary forms, nor installation on the property of
231 accessory structures, such as garages or sheds not occupied as dwelling units or not
232 part of the main structure. For a substantial improvement, the “actual start of
233 construction” means the first alteration of any wall, ceiling, floor, or other structural part
234 of a building, whether or not that alteration affects the external dimensions of the
235 building.

236 “State coordinating agency” means the Division of Water Resources, Kansas
237 Department of Agriculture, or other office designated by the Governor of the State or by
238 State statute at the request of the Administrator to assist in the implementation of the
239 National Flood Insurance Program (NFIP) in the State.

240 “Structure” means, for floodplain management purposes, a walled and roofed
241 building, including a gas or liquid storage tank, that is principally above ground, as well
242 as a manufactured home. “Structure,” for insurance purposes, means a walled and
243 roofed building, other than a gas or liquid storage tank that is principally above ground
244 and affixed to a permanent site, as well as a manufactured home on a permanent
245 foundation, ~~or a travel trailer without wheels on a permanent foundation.~~ For the latter
246 purpose, the term includes a building while in the course of construction, alteration or

247 repair, but does not include building materials or supplies intended for use in such
248 construction, alteration or repair, unless such materials or supplies are within an
249 enclosed building on the premises.

250 “Substantial damage” means damage of any origin sustained by a structure
251 whereby the cost of restoring the structure to pre-damaged condition would equal or
252 exceed 50 percent of the market value of the structure before the damage occurred.

253 “Substantial improvement” means any reconstruction, rehabilitation, addition, or
254 other improvement of a structure, the cost of which equals or exceeds 50 percent of the
255 market value of the structure before “start of construction” of the improvement. This
256 term includes structures which have incurred “substantial damage,” regardless of the
257 actual repair work performed. The term does not, however, include either (1) any project
258 for improvement of a structure to correct existing violations of State or local health,
259 sanitary, or safety code specifications that have been identified by the local code
260 enforcement official and which are the minimum necessary to assure safe living
261 conditions, or (2) any alteration of a “historic structure”; provided, that the alteration will
262 not preclude the structure’s continued designation as a “historic structure.”

263 “Unnumbered A Zone” means a special flood hazard area shown on either a
264 flood hazard boundary map or flood insurance rate map where the base flood elevation
265 is not shown.

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

269 “Violation” means the failure of a structure or other development to be fully
270 compliant with the community’s floodplain management regulations. A structure or other

271 development without the elevation certificate, other certifications, or other evidence of
272 compliance required by this chapter is presumed to be in violation until such time as that
273 documentation is provided.

274 “Water surface elevation” means the height, in relation to the National
275 Geodetic ~~American~~ Vertical Datum (NGAVD) of ~~1929~~1988 (or other datum where
276 specified) of floods of various magnitudes and frequencies in the floodplains of riverine
277 areas.

278 Section 2. That section 17.30.020, Penalties for violation of chapter, of The
279 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

280 **Violations; Penalties for violation of chapter.**

281 (a) The Floodplain Administrator may make reasonable entry upon any lands
282 and waters in Topeka for the purpose of making an investigation, inspection or survey to
283 verify compliance with these regulations. The Floodplain Administrator shall provide
284 notice of entry by mail, electronic mail, phone call, or personal delivery to the owner,
285 owner’s agent, lessee, or lessee’s agent whose lands will be entered. If none of these
286 persons can be found, the Floodplain Administrator shall affix a copy of the notice to
287 one or more conspicuous places on the property a minimum of five (5) days prior to
288 entry.

289 (b) A structure or other development without a floodplain development permit
290 or other evidence of compliance is presumed to be in violation until such documentation
291 is provided.

292 (c) The Floodplain Administrator shall provide written notice of a violation of
293 this ordinance to the owner, the owner’s agent, lessee, or lessee’s agent by personal
294 service or by certified mail, return receipt requested. The written notice shall include

295 instructions and a deadline to request a hearing before the Board of Zoning Appeals,
296 and if no hearing is requested, a deadline by which the violation must be corrected.

297 (ad) Violation of the provisions of this chapter or failure to comply with any of
298 its requirements, including violations of conditions and safeguards established in
299 connection with grants of variances or special exceptions, shall constitute a
300 misdemeanor. Any person who violates this chapter or fails to comply with any of its
301 requirements shall, upon conviction thereof, be fined not to exceed \$499.00 and, in
302 addition, shall pay all costs and expenses involved in the case. Each day such violation
303 continues shall be considered a separate offense.

304 (b) Nothing contained in this section shall prevent the City or other
305 appropriate authority from taking such other lawful action as is necessary to prevent or
306 remedy any violation.

307 (e) Notwithstanding any criminal prosecutions or in lieu of any criminal
308 prosecutions, if the owner, occupant or agent in charge of the property has neither
309 alleviated the conditions causing the alleged violation nor requested a hearing within the
310 period specified, the Floodplain Administrator or designee shall abate or remove the
311 conditions causing the violation.

312 (f) If the Floodplain Administrator or designee abates or removes the
313 nuisance pursuant to this section, notice shall be provided to the owner, the owner's
314 agent, lessee, or lessee's agent by certified mail, return receipt requested, of the total
315 cost of the abatement or removal incurred. The notice shall also state that the payment
316 is due within 30 days following receipt of the notice. The cost of providing notice,
317 including any postage, required by this section may also be recovered.

318 (g) The notice shall also state that if the cost of the removal or abatement is

319 not paid within the 30-day period, the cost of the abatement or removal shall be
320 collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall
321 be assessed as a special assessment and charged against the lot or parcel of land on
322 which the nuisance was located and the city clerk, at the time of certifying other city
323 taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the
324 same on the tax rolls of the county against such lot or parcel of land and it shall be
325 collected by the county treasurer and paid to the city as other city taxes are collected
326 and paid. The city may pursue collection both by levying a special assessment and in
327 the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full
328 cost and applicable interest has been paid in full.

329 Section 3. That section 17.30.030, Statutory authorization, of The Code of the
330 City of Topeka, Kansas, is hereby amended to read as follows:

331 **Statutory authorization.**

332 The legislature of the State of Kansas has in K.S.A. 12-741 et seq., and
333 specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to
334 adopt floodplain management regulations designed to protect the health, safety, and
335 general welfare of the public.

336 Section 4. That section 17.30.040, Findings of fact, of The Code of the City of
337 Topeka, Kansas, is hereby amended to read as follows:

338 **Findings of fact.**

339 (a) Flood Losses Resulting from Periodic Inundation. The special flood hazard
340 areas of the City are subject to inundation which results in loss of life and property,
341 health and safety hazards, disruption of commerce and governmental services,
342 extraordinary public expenditures for flood protection and relief, and impairment of the

343 tax base; all of which adversely affect the public health, safety and general welfare.

344 (b) General Causes of the Flood Losses. Flood losses are caused by the
345 cumulative effect of development in any delineated floodplain causing increases in flood
346 heights and velocities; and the occupancy of flood hazard areas by uses vulnerable to
347 floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood
348 damages.

349 (c) Methods Used to Analyze Flood Hazards. The flood insurance study (FIS)
350 that is the basis of this chapter uses a standard engineering method of analyzing flood
351 hazards, which consists of a series of interrelated steps:

352 (1) Selection of a base flood that is based upon engineering calculations
353 which permit a consideration of such flood factors as its expected frequency of
354 occurrence, the area inundated, and the depth of inundation. The base flood
355 selected for this chapter is representative of large floods, which are characteristic
356 of what can be expected to occur on the particular streams subject to this
357 chapter. The base flood is the flood that is estimated to have a one percent
358 chance of being equaled or exceeded in any one year as delineated on the
359 current effective Federal Insurance Administrator's FIS, and illustrative materials
360 documented in the interior drainage area maps of the Topeka levee certification
361 package, and any future revisions thereto, and illustrative materials dated
362 September 29, 2011, as amended and any future revisions thereto.

363 (2) Calculation of water surface profiles that are based on a standard
364 hydraulic engineering analysis of the capacity of the stream channel and
365 overbank areas to convey the regulatory flood.

366 (3) Computation of a floodway required to convey this flood without

367 increasing flood heights more than one foot at any point.

368 (4) Delineation of floodway encroachment lines within which no
369 development is permitted that would cause any increase in flood height.

370 (5) Delineation of floodway fringe, i.e., that area outside the floodway
371 encroachment lines, but still subject to inundation by the base flood.

372 Section 5. That section 17.30.070, Lands to which this chapter applies, of The
373 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

374 **Lands to which this chapter applies.**

375 ~~(a)~~ This chapter shall apply to all lands within the jurisdiction of the City of
376 Topeka, Kansas, identified as numbered and unnumbered A zones, AE, AO, and AH
377 zones, on flood insurance rate map (FIRM) panels ~~released~~referenced on the
378 associated FIRM Index dated September 29, 2011, as amended, and any future
379 revisions thereto; and the designated AH zones illustrated as interior drainage area
380 floodplains (or levee ponding areas) in the interior drainage area maps of the Topeka
381 levee certification package or any other work map areas designated by the City of
382 Topeka that can be considered best available data. This chapter shall also apply to all
383 locations with a Letter of Map Revision – Fill (LOMR-F).In all areas covered by this
384 chapter, no development shall be permitted except through the issuance of a floodplain
385 development permit, granted by the ~~City Manager~~Floodplain Administrator or designee
386 under such safeguards and restrictions as ~~are necessary~~may reasonably be imposed
387 for the promotion and maintenance of the general welfare, health of the inhabitants of
388 the community, and as specifically noted in ~~Article III of this chapter~~TMC 17.30.180.

389 ~~(b) In addition, this chapter shall also apply to those lands which, based on~~
390 ~~the most accurate information available to the Development Services Director, fall within~~

391 ~~the ultimate 100-year floodplain.~~

392 Section 6. That section 17.30.090, Interpretation, of The Code of the City of
393 Topeka, Kansas, is hereby amended to read as follows:

394 **Interpretation.**

395 In the interpretation and application, the provisions of this chapter shall be held to
396 be minimum requirements to protect the health and safety of the public and shall not be
397 deemed a limitation or repeal of any other powers granted by Kansas statutes.

398 Section 7. That section 17.30.150, Floodplain development permit, of The
399 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

400 **Floodplain development permit.**

401 A floodplain development permit shall be required for all proposed construction or
402 other development, including the placement of manufactured homes or mobile homes,
403 in the areas described in TMC 17.30.070. No person, firm, corporation, or unit of
404 government shall initiate any development or substantial improvement or cause the
405 same to be done without first obtaining a separate floodplain development permit for
406 each structure or other development.

407 Section 8. That section 17.30.160, Application, of The Code of the City of
408 Topeka, Kansas, is hereby amended to read as follows:

409 **Application.**

410 To obtain a floodplain development permit, the applicant shall first file an
411 application in writing on a form furnished for that purpose. Every floodplain development
412 permit application shall:

- 413 (a) Describe the land on which the proposed work is to be done by lot, block
414 and tract, house and street address, or similar description that will readily identify and

415 specifically locate the proposed structure or work;

416 (b) Identify and describe the work to be covered by the floodplain
417 development permit;

418 (c) Indicate the use or occupancy for which the proposed work is intended;

419 (d) Indicate the assessed value of the structure and the fair market value of
420 the improvement;

421 (e) Specify whether development is located in designated flood fringe or
422 floodway;

423 (f) Specify whether development is located in a designated zone AH
424 floodplain or levee ponding area as designated by the City of Topeka;

425 (g) Identify the existing base flood elevation and the elevation of the proposed
426 development;

427 (h) Give such other information as reasonably may be required by the
428 Floodplain Administrator;

429 (i) Be accompanied by plans and specifications for proposed construction;
430 and

431 (j) Be signed by the permittee or his authorized agent who may be required
432 to submit evidence to indicate such authority.

433 Section 9. That section 17.30.170, Nonconforming uses, of The Code of the
434 City of Topeka, Kansas, is hereby amended to read as follows:

435 **Nonconforming uses.**

436 A structure, or the use of a structure or premises that was lawful before the
437 passage or amendment of this chapter, but which is not in conformity with the provisions
438 of this chapter, may be continued subject to the following conditions:

439 (a) If such structure, use, or utility service has been or is discontinued for 12
440 consecutive months, any future use of the building shall conform to this chapter.

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

448 Section 10. That section 17.30.180, General standards, of The Code of the City
449 of Topeka, Kansas, is hereby amended to read as follows:

450 **General standards.**

451 (a) No permit for floodplain development shall be granted for new
452 construction, substantial improvements, and other improvements, including the
453 placement of manufactured or mobile homes, within any numbered or unnumbered A,
454 AE, AO, and AH zones, unless the conditions of this ~~article~~section are satisfied.

455 (b) All areas identified as unnumbered A zones on the FIRM are subject to
456 inundation of the one percent annual chance or 100-year flood; however, the base flood
457 elevation is not provided. Development within unnumbered A zones is subject to all
458 provisions of this chapter. If flood insurance study data is not available, the f[E]loodplain
459 aAAdministrator shall obtain, review, and reasonably utilize any base flood elevation or
460 floodway data currently available from Federal, State, or other sources.

461 (c) Until a floodway is designated, no new construction, substantial
462 improvements, or other development that exceeds 5,000 square feet of impervious

463 surface or is part of a larger common plan of development that exceeds 5,000 square
464 feet of impervious surface, including fill, shall be permitted within any unnumbered or
465 numbered A zones, ~~AH zones~~ or AE zones on the FIRM, unless it is demonstrated that
466 the cumulative effect of the proposed development, when combined with all other
467 existing and anticipated development, will not increase the water surface elevation of
468 the base flood more than one foot at any point within the community, will not exceed the
469 lowest adjacent grade of the lowest impacted habitable structure, and will not exceed
470 the current water surface elevation at the location of a habitable structure currently
471 impacted by the floodplain.

472 (d) No new construction, substantial improvements or other development,
473 including fill, shall be permitted within a designated zone AH floodplain or levee ponding
474 area designated by the City of Topeka unless it is demonstrated that all fill in the zone
475 AH/ponding area is offset by compensating cut to negate volume losses, with the
476 compensatory storage being frequency/stage based for the two-year, 10-year, 25-year,
477 50-year, and 100-year events.

478 (e) No new construction, substantial improvements or other development that
479 exceeds 5,000 square feet of impervious surface or is part of a larger common plan of
480 development that exceeds 5,000 square feet of impervious surface, including fill, shall
481 be permitted within a zone AE floodplain fringe zone on the FIRM, unless it is
482 demonstrated that the water surface elevation will not exceed the lowest adjacent grade
483 of the lowest impacted habitable structure, and will not exceed the current water surface
484 elevation at the location of a habitable structure currently impacted by the floodplain.

485 (f) No new construction, substantial improvements or other development,
486 including fill, resulting in alternations to a stream that has a drainage area greater than

487 640 acres (one square mile) shall be permitted without KDA-DWR approval for the
488 stream change, unless the change is specifically exempt from the KDA-DWR
489 regulations.

490 (g) All new construction, subdivision proposals, substantial improvements,
491 prefabricated structures, placement of manufactured or mobile homes, and other
492 developments shall require:

493 (1) Design or adequate anchorage to prevent flotation, collapse, or lateral
494 movement of the structure resulting from hydrodynamic and hydrostatic loads,
495 including the effects of buoyancy;

496 (2) Construction with materials resistant to flood damage;

497 (3) Utilization of methods and practices that minimize flood damages;

498 (4) All electrical, heating, ventilation, plumbing, air-conditioning
499 equipment, and other service facilities be designed and/or located so as to
500 prevent water from entering or accumulating within the components during
501 conditions of flooding;

502 (5) New or replacement water supply systems and/or sanitary sewage
503 systems be designed to minimize or eliminate infiltration of flood waters into the
504 systems and discharges from the systems into flood waters, and on-site waste
505 disposal systems be located so as to avoid impairment or contamination ~~from~~
506 ~~them during flooding~~; and

507 (6) Subdivision proposals and other proposed new development,
508 including manufactured home parks or subdivisions, located within special flood
509 hazard areas are required to assure that:

510 (i) All such proposals are consistent with the need to minimize

511 flood damage;

512 (ii) All public utilities and facilities, such as sewer, gas, electrical,
513 and water systems, are located and constructed to minimize or eliminate
514 flood damage;

515 (iii) Adequate drainage is provided so as to reduce exposure to
516 flood hazards; and

517 (iv) All proposals for development, including proposals for
518 manufactured home parks and subdivisions, of greater than five (5) acres
519 or fifty (50) lots, whichever is lesser, include within such proposals base
520 flood elevation data.

521 (h) ~~The storage or processing of materials within the special flood hazard~~
522 ~~area that are in time of flooding buoyant, flammable, explosive, or could be injurious to~~
523 ~~human, animal, or plant life is prohibited.~~ Storage of other material or equipment may be
524 allowed if not subject to major damage by floods, if firmly anchored to prevent flotation,
525 or if readily removable from the area within the time available after a flood warning.

526 (i) Accessory Structures: Structures used solely for parking and limited
527 storage purposes, not attached to any other structure on the site, of limited investment
528 value, and not larger than 400 square feet, may be constructed at-grade and wet-
529 floodproofed provided there is no human habitation or occupancy of the structure; the
530 structure is of single-wall design; the accessory structure meets the following floodplain
531 management requirements; and a floodplain development permit has been issued. Wet-
532 floodproofing is only allowed for small low cost structures.

533 Any permit granted for an accessory structure shall be decided individually based
534 on a case by case analysis of the building's unique circumstances. Permits shall meet

535 the following conditions.

536 In order to minimize flood damages during the one percent annual chance flood
537 event, also referred to as the 100-year flood and the threat to public health and safety,
538 the following conditions shall be required for any permit issued for accessory structures
539 that are constructed at-grade and wet-floodproofed:

540 (1) Use of the accessory structures must be solely for parking and
541 limited storage purposes in any special flood hazard area as identified on the
542 community's Flood Insurance Rate Map (FIRM).

543 (2) For any new or substantially damaged accessory structures, the
544 exterior and interior building components and elements (i.e., foundation, wall
545 framing, exterior and interior finishes, flooring, etc.) below the base flood
546 elevation, must be built with flood-resistant materials in accordance with TMC
547 17.30.180(g)(2).

548 (3) The accessory structures must be adequately anchored to prevent
549 flotation, collapse, or lateral movement of the structure in accordance with TMC
550 17.30.180(g)(2). All of the building's structural components must be capable of
551 resisting specific flood-related forces including hydrostatic, buoyancy, and
552 hydrodynamic and debris impact forces.

553 (4) Any mechanical, electrical, or other utility equipment must be
554 located above the base flood elevation or floodproofed so that they are contained
555 within a watertight, floodproofed enclosure that is capable of resisting damage
556 during flood conditions in accordance with TMC 17.30.180(g)(2).

557 (5) The accessory structures must meet all NFIP opening
558 requirements. The NFIP requires that enclosure or foundation walls, subject to

559 the one percent annual chance flood event, also referred to as the 100-year
560 flood, contain openings that will permit the automatic entry and exit of flood
561 waters in accordance with TMC 17.30.190(a)(3).

562 (6) The accessory structures must comply with the floodplain
563 management floodway encroachment provisions of TMC 17.30.220(b) of this
564 ordinance. No permits may be issued for accessory structures within any
565 designated floodway, if any increase in flood levels would result during the 100-
566 year flood.

567 (7) Equipment, machinery, or other contents must be protected from
568 any flood damage.

569 (8) No disaster relief assistance under any program administered by
570 any Federal agency shall be paid for any repair or restoration costs of the
571 accessory structures.

572 (9) Wet-floodproofing construction techniques must be reviewed and
573 approved by the Floodplain Administrator or designee. The Floodplain
574 Administrator or designee may request approval by a registered professional
575 engineer or architect prior to the issuance of any floodplain development permit
576 for construction. Cost for any required professional certification shall be paid by
577 the developer.

578 (i) Critical Facilities: All new or substantially improved critical nonresidential
579 facilities including, but not limited, to governmental buildings, police stations, fire
580 stations, hospitals, orphanages, penal institutions, communication centers, water and
581 sewer pumping stations, water and sewer treatment facilities, transportation
582 maintenance facilities, places of public assembly, emergency aviation facilities, and

583 schools shall be elevated at least one (1) foot above the .2 percent annual chance flood
584 event, also referred to as the 500-year flood level or together with attendant utility and
585 sanitary facilities, be floodproofed so that below a minimum of one (1) foot above the
586 500-year flood level the structure is water tight with walls substantially impermeable to
587 the passage of water and with structural components having the capability of resisting
588 hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered
589 professional engineer or architect shall verify that the standards of this subsection are
590 satisfied. Such certification shall be provided to the Floodplain Administrator as set
591 forth in TMC 17.30.140(i).

592 (1) All critical facilities shall have access routes that are above the
593 elevation of the 500-year flood.

594 (2) No critical facilities shall be constructed in any designated
595 floodway.

596 (k) Hazardous Materials: All hazardous material storage and handling sites
597 shall be located out of the special flood hazard area.

598 (l) Cumulative Improvement: A structure may be improved (remodeled or
599 enlarged) without conforming to current requirements for elevation so long as the
600 cumulative value of all work done within the last ten (10) calendar years does not
601 exceed fifty (50) percent of the structure's current market value. If the cumulative value
602 of the improvement exceeds fifty (50) percent of the structure's current market value,
603 the structure must be brought into compliance with TMC 17.30.190 which requires
604 elevation of residential structures to one (1) foot above the base flood elevation or the
605 elevation/floodproofing of non-residential structures to one (1) foot above the base flood
606 elevation.

607 Section 11. That section 17.30.190, Specific standards, of The Code of the City
608 of Topeka, Kansas, is hereby amended to read as follows:

609 **Specific standards.**

610 (a) In all areas identified as numbered and unnumbered A zones, AE zones,
611 and AH zones, where base flood elevation data have been provided, as set forth in
612 TMC 17.30.170(b), the following provisions are required:

613 (1) Residential Construction. New construction or substantial
614 improvement of any residential structures, including manufactured or mobile
615 homes, shall have the lowest floor, including basement, elevated a minimum of
616 one (1) foot above base flood elevation. All mechanical and heating ventilation
617 equipment to be elevated to same level of one (1) foot above the base flood
618 elevation. The elevation of the lowest floor shall be certified by a licensed land
619 surveyor or professional engineer.

620 (2) Nonresidential Construction. New construction or substantial
621 improvement of any commercial, industrial, or other nonresidential structures,
622 including manufactured or mobile homes, shall have the lowest floor, including
623 basement, elevated a minimum of one (1) foot above the base flood elevation or,
624 together with attendant utility and sanitary facilities, be ~~dry~~-floodproofed ~~to a~~
625 ~~minimum of so that below~~ one (1) foot above the base flood elevation the
626 structure is watertight with walls substantially impermeable to the passage of
627 water and with structural components having the capability of resisting
628 hydrostatic and hydrodynamic loads and effects of buoyancy. All mechanical and
629 heating ventilation equipment to be elevated or protected to one (1) foot above
630 the base flood elevation. A registered professional engineer or architect shall

631 ~~certify~~verify that the standards of this subsection are satisfied. The elevation of
632 the lowest floor shall be certified by a licensed land surveyor or professional
633 engineer. Such certification shall be provided to the Floodplain Administrator as
634 set forth in TMC 17.30.140(i). Mechanical and HVAC equipment will be elevated
635 or protected to same levels of freeboard above the base flood elevation.

636 (3) Enclosures Below Lowest Floor. Require for all new construction and
637 substantial improvements that fully enclosed areas below lowest floor used solely
638 for parking of vehicles, building access, or storage in an area other than a
639 basement and that are subject to flooding shall be designed to automatically
640 equalize hydrostatic flood forces on exterior walls by allowing for the entry and
641 exit of flood waters. Designs for meeting this requirement must either be certified
642 by a registered professional engineer or architect or meet or exceed the following
643 minimum criteria:

644 (i) A minimum of two (2) openings having a total net area of not
645 less than one (1) square inch for every square foot of enclosed area
646 subject to flooding shall be provided; and

647 (ii) The bottom of all openings shall be no higher than one (1) foot
648 above grade. Openings may be equipped with screens, louvers, valves, or
649 other coverings or devices; provided, that they permit the automatic entry
650 and exit of flood waters.

651 Section 12. That section 17.30.200, Manufactured homes, of The Code of the
652 City of Topeka, Kansas, is hereby amended to read as follows:

653 **Manufactured or mobile homes.**

654 (a) All manufactured or mobile homes to be placed within all unnumbered and

655 numbered A zones, AE zones, and AH zones on the community's FIRM shall be
656 required to be installed using methods and practices that minimize flood damage. For
657 the purposes of this requirement, manufactured or mobile homes must be elevated and
658 anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may
659 include, but are not limited to, use of over-the-top or frame ties to ground anchors. This
660 requirement is in addition to applicable State and local anchoring requirements for
661 resisting wind forces.

662 (b) ~~Require m~~Manufactured or mobile homes that are placed or substantially
663 improved within unnumbered or numbered A zones, AE zones, and AH zones, on the
664 community's FIRM shall be placed only on the following sites:

- 665 (1) Outside of a manufactured home park or subdivision;
666 (2) In a new manufactured home park or subdivision;
667 (3) In an expansion to an existing manufactured home park or
668 subdivision; or

669 (4) In an existing manufactured home park or subdivision on which a
670 manufactured or mobile home has incurred substantial damage as the result of a
671 flood, be elevated on a permanent foundation such that the lowest floor of the
672 manufactured home is elevated a minimum of one (1) foot above the base flood
673 elevation and be securely attached to an adequately anchored foundation system
674 to resist flotation, collapse, and lateral movement. All mechanical and heating
675 ventilation equipment to be elevated to same level of one (1) foot above the base
676 flood elevation. The elevation of the lowest floor shall be certified by a licensed
677 land surveyor or professional engineer.

678 (c) ~~Require that m~~Manufactured or mobile homes ~~to be~~that are placed or

679 substantially improved on sites in an existing manufactured home park or subdivision
680 within all unnumbered and numbered A zones, AE zones and AH zones, on the
681 community's FIRM, that are not subject to the provisions of subsection (b) of this
682 section, shall be elevated so that ~~either:~~

683 (1) ~~The~~ the lowest floor of the manufactured or mobile home is a minimum
684 of one (1) foot above the base flood level; ~~or~~

685 (2) ~~The manufactured home chassis is supported by reinforced piers or~~
686 ~~other foundation elements of at least equivalent strength that are no less than 36~~
687 ~~inches in height above grade and be securely attached to an adequately~~
688 ~~anchored foundation system to resist flotation, collapse, and lateral movement.~~

689 The elevation of the lowest floor shall be certified by a licensed land surveyor or
690 professional engineer. Mechanical and HVAC equipment shall be elevated to the
691 same level as the lowest floor.

692 Section 13. That section 17.30.210, Areas of shallow flooding (AO and AH
693 zones), of The Code of the City of Topeka, Kansas, is hereby amended to read as
694 follows:

695 **Areas of shallow flooding (AO and AH zones).**

696 Located within the areas of special flood hazard as described in TMC 17.30.070
697 are areas designated as AO and AH zones. ~~These areas have special flood hazards~~
698 ~~associated with base flood depths of one to three feet where a clearly defined channel~~
699 ~~does not exist and where the path of flooding is unpredictable and indeterminate.~~ The
700 following provisions apply:

701 (a) *AO Zones.* These areas have special flood hazards associated with base
702 flood depths of one (1) to three (3) feet where a clearly defined channel does not exist
703 and where the path of flooding is unpredictable and indeterminate.

704 (1) All new construction and substantial improvements of residential
705 structures, including manufactured or mobile homes, shall have the lowest floor,
706 including basement, elevated above the highest adjacent grade at least as high
707 as the depth number specified in feet on the City's community FIRM (at least two
708 feet if no depth number is specified) plus one (1) foot of freeboard. Mechanical
709 and HVAC equipment shall be protected to the same level as the lowest floor.

710 (2) All new construction and substantial improvements of any
711 commercial, industrial, or other nonresidential structures, including manufactured
712 or mobile homes, shall have the lowest floor, including basement, elevated above
713 the highest adjacent grade at least as high as the depth number specified in feet
714 on the City's community FIRM (at least two feet if no depth number is specified)
715 plus one (1) foot of freeboard or together with attendant utilities and sanitary
716 facilities shall be completely floodproofed to that ~~level~~ so that the structure is
717 watertight with walls substantially impermeable to the passage of water and with
718 structural components having the capability of resisting hydrostatic and
719 hydrodynamic loads and effects of buoyancy. Mechanical and HVAC shall be
720 flood protected or elevated to the same freeboard level.

721 (3) Adequate drainage paths shall be required around structures on
722 slopes, in order to guide floodwaters around and away from proposed structures.

723 (b) *AH Zones.*

724 (1) The specific standards for all areas of special flood hazard where
725 base flood elevation has been provided shall be required as set forth in TMC
726 17.30.180 and 17.30.190.

727 (2) Adequate drainage paths shall be required around structures on
728 slopes, in order to guide floodwaters around and away from proposed structures.

729 Section 14. That section 17.30.220, Floodway, of The Code of the City of
730 Topeka, Kansas, is hereby amended to read as follows:

731 **Floodway.**

732 Located within areas of special flood hazard established in TMC 17.30.070 are
733 areas designated as floodways. Since the floodway is an extremely hazardous area due
734 to the velocity of floodwaters that carry debris and potential projectiles, the following
735 provisions shall apply:

736 (a) The City shall select and adopt a regulatory floodway based on the
737 principle that the area chosen for the regulatory floodway must be designed to carry the
738 waters of the base flood without increasing the water surface elevation of that flood
739 more than one foot at any point.

740 (b) The City shall prohibit any encroachments, including fill, new construction,
741 substantial improvements, and other development, within the adopted regulatory
742 floodway unless it has been demonstrated through hydrologic and hydraulic analyses
743 performed in accordance with standard engineering practice that the proposed
744 encroachment would not result in any increase in flood levels within the community
745 during the occurrence of the base flood discharge. Documentation shall be provided to
746 the City of Topeka for any permits required by the KDA-DWR and/or FEMA.

747 (c) The Floodplain Administrator or designee may permit encroachments

748 within the adopted regulatory floodway that would result in an increase in base flood
749 elevations, provided that the Floodplain Administrator or designee first applies for a
750 conditional FIRM and floodway revision, fulfills the requirements for such revisions as
751 established under the provisions of 44 CFR 65.12, and receives the approval of FEMA.

752 (ed) If subsection (b) of this section is satisfied, all new construction and
753 substantial improvements shall comply with all applicable flood hazard reduction
754 provisions of ~~this~~ article III.

755 (de) In unnumbered A zones, the City shall obtain, review, and reasonably
756 utilize any base flood elevation or floodway data currently available from Federal, State,
757 or other sources as set forth in TMC 17.30.180(b).

758 Section 15. That section 17.30.240, Establishment of appeal board, of The
759 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

760 **Establishment of appeal board.**

761 (a) The Board of Zoning Appeals (Board) shall hear and decide appeals and
762 requests for variances from the floodplain management requirements of this chapter.

763 (b) Where an application for a floodplain development permit is denied by the
764 Floodplain Administrator, the applicant may apply for such floodplain development
765 permit directly to the Board.

766 (c) The Board shall hear and decide appeals when it is alleged that there is
767 an error in any requirement, decision, or determination made by the Floodplain
768 Administrator in the enforcement or administration of this chapter.

769 (d) Any person aggrieved by the decision of the Board may appeal such
770 decision to the district court as provided in K.S.A. 12-759 and 12-760.

771 Section 16. That section 17.30.250, Floodplain management variance criteria,

772 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

773 **Floodplain management variance criteria.**

774 In ~~reviewing~~passing upon such applications for variances, the Board shall
775 consider all technical data and evaluations, all relevant factors, standards specified in
776 other sections of this chapter, and the following criteria:

777 (a) Danger to life and property due to flood damage;

778 (b) Danger that materials may be swept onto other lands to the injury of others;

779 (c) Susceptibility of the proposed facility and its contents to flood damage and
780 the effect of such damage on the individual owner;

781 (d) Importance of the services provided by the proposed facility to the
782 community;

783 (e) Necessity to the facility of a waterfront location, where applicable;

784 (f) Availability of alternative locations, not subject to flood damage, for the
785 proposed use;

786 (g) Compatibility of the proposed use with existing and anticipated development;

787 (h) Relationship of the proposed use to the comprehensive plan and floodplain
788 management program for that area;

789 (i) Safety of access to the property in times of flood for ordinary and emergency
790 vehicles;

791 (j) Expected heights, velocity, duration, rate of rise and sediment transport of
792 the flood waters, if applicable, expected at the site; and

793 (k) Costs of providing governmental services during and after flood conditions,
794 including maintenance and repair of public utilities and facilities such as sewer, gas,
795 electrical, and water systems; streets; and bridges.

796 Section 17. That section 17.30.260, Conditions for approving variances, of The
797 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

798 **Conditions for approving variances.**

799 (a) Generally, variances may be issued for new construction and substantial
800 improvements to be erected on a lot of one-half acre or less in size contiguous to and
801 surrounded by lots with existing structures constructed below the base flood elevation,
802 providing subsections (b) through (f) of this section have been fully considered. As the
803 lot size increases beyond the one-half acre, the technical justification required for
804 issuing the variance increases.

805 (b) Variances may be issued for the reconstruction, repair, ~~rehabilitation,~~ or
806 restoration of structures listed on the National Register of Historic Places, the State
807 Inventory of Historic Places, or local inventory of historic places upon determination,
808 provided the proposed activity will not preclude the structure's continued historic
809 designation and the variance is the minimum necessary to preserve the historic
810 character and design of the structure.

811 (c) Variances shall not be issued within any designated floodway if any
812 significant increase in flood discharge or base flood elevation would result.

813 (d) Variances shall only be issued upon a determination that the variance is the
814 minimum necessary, considering the flood hazard, to afford relief.

815 (e) Variances shall only be issued upon: (1) showing of good and sufficient
816 cause, (2) determination that failure to grant the variance would result in exceptional
817 hardship to the applicant, and (3) determination that the granting of a variance will not
818 result in increased flood heights, additional threats to public safety, extraordinary public
819 expense, create nuisances, cause fraud on or victimization of the public, or conflict with

820 existing local laws or ordinances.

821 (f) ~~The Development Services Director~~Floodplain Administrator or designee shall
822 notify the applicant that: (1) the issuance of a variance to construct a structure below
823 base flood level will result in increased premium rates for flood insurance up to amounts
824 as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below
825 the base flood level increases risks to life and property. Such notification shall be
826 maintained with the record of all variance actions as required by this chapter.

827 (g) The Floodplain Administrator or designee shall maintain a record of all
828 variance actions, including justification for their issuance.

829 (h) Variances may be issued by the Board of Zoning Appeals for new
830 construction and substantial improvements and for other development necessary for the
831 conduct of a functionally dependent use provided that the criteria of items (a) through
832 (e) of this section are met, and the structure or other development is protected by
833 methods that minimize flood damages during the base flood and create no additional
834 threats to public safety.

835 (i) A community shall maintain a record of all variance actions, including
836 justification for their issuance.

837 (i) Variances may be issued by a community for new construction and
838 substantial improvements and for other development necessary for the conduct of a
839 functionally dependent use provided that the criteria of items a through e of this section
840 are met, and the structure or other development is protected by methods that minimize
841 flood damages during the base flood and create no additional threats to public safety.

842 Section 18. That original §§ 17.30.010 through 17.30.040, 17.30.070,
843 17.30.090, 17.30.150 through 17.30.220 and 17.30.240 through 17.30.260 of The Code

844 of the City of Topeka, Kansas, are hereby specifically repealed.

845 Section 19. This ordinance shall take effect and be in force from and after its
846 passage, approval and publication in the official City newspaper.

847 Section 20. This ordinance shall supersede all ordinances, resolutions or rules,
848 or portions thereof, which are in conflict with the provisions of this ordinance.

849 Section 21. Should any section, clause or phrase of this ordinance be declared
850 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
851 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

852 PASSED AND APPROVED by the Governing Body on _____.

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CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk