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ORDINANCE NO. 40-973

AN ORDINANCE AMENDING SECTIONS 27.04.030, 27.04.100, 27.04.120, 27.04.130, 27.04.140, 27.04.150, 27.04.160, 27.04.170, AND 27.04.180 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DEFINITIONS, VARIANCE AND APPEALS PROCEDURES, GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION, FLOOD HAZARD REDUCTION STANDARDS FOR SUBDIVISION PROPOSALS, SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION, FLOODWAYS, AREAS OF SHALLOW FLOODING, NON-CONFORMING USE AND AMENDMENTS AND REPEALING THE ORIGINALS OF SAID SECTIONS.

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

SECTION 1. Section 27.04.030 of the Code of the City of Wichita, Kansas, shall read as follows:

"Definitions. Unless otherwise expressly stated or unless the context clearly indicates a different intention, the following terms shall, for the purposes of this chapter, have the meanings indicated in this section:

- a. **'Actuarial or Risk Premium Rates'** means those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. 'Risk premium rates' include provision for operating costs and allowances.
- b. **'Appeal'** means a request for a review of the Superintendent of Central Inspection's interpretation of any provision of this code or a request for a variance.
- c. **'Area of shallow flooding'** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may not be evident. Such flooding is characterized by ponding or sheet flow.
- d. **'Area of special flood hazard'** is the land in the flood plain within a community subject to one (1) percent or greater change of flooding in any given year.
- e. **'Base flood'** means the flood having one percent (1%) change of being equaled or exceeded in any given year.
- f. **'Development'** means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- g. **'Existing construction'** means (for the purposes of determining rates) structures for which the 'start of construction' commenced before the effective date of the FIRM. 'Existing construction' may also be referred to as 'existing structures'.
- h. **'Flood' or 'flooding'** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters.
- (2) The unusual and rapid accumulation or run-off or surface waters from any source.
- i. **"Flood Insurance Rate Map"** (FIRM) means an official map of a community, on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.
- j. **'Flood Insurance Study'** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary/Floodway map and the water surface elevation of the base flood.
- k. **'Regulatory Floodway'** means the channel of a river or other watercourse and the adjacent land areas as tabulated in the FIS that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.
- l. **'Floodway Fringe'** is that area of the floodplain, outside of the regulatory floodway, that is likely to be flooded by the base flood.
- m. **'Highest adjacent grade'** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- n. **'Manufactured home'** means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connection to the required utilities. For flood plain management purposes the term 'manufactured home' also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term 'manufactured home' does not include park trailers, travel trailers, and other similar vehicles.
- o. **'Manufactured home park or subdivision'** means a parcel (or continuous parcels) of land divided into two or more manufactured home lots for rent or sale.
- p. **'New construction'** means structures for which 'start of construction' or substantial improvement is commenced on or after the effective date of the FIRM.
- q. **'Start of construction'** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Public L. 97-3481]), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor
- does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- r. **'Structure'** means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
- s. **'Substantial improvement'** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure

either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition 'substantial improvement' is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with the existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

- t. **'Variance'** is a grant of relief to a person from the requirements of this code which merits construction in a manner otherwise prohibited by this code where specific enforcement would result in unnecessary hardship."

SECTION 2. Section 27.04.100 of the Code of the City of Wichita, Kansas, shall read as follows:

"Variance Appeals and Procedures.

- a. The Administrator shall hear and decide appeals and requests for variances from the requirements of this chapter. Applications for variance shall be in writing and on forms provided by the Administrator. "A non-refundable processing fee of one hundred dollars (\$100.00) shall be paid to the Administrator at the time of the filing of a request for variance.
- b. The Subdivision Committee of the Metropolitan Area Planning Commission shall hear appeals from any decision or determination made by the Administrator in the enforcement or administration of this chapter. Such appeals shall be in writing and shall specify the grounds for appeal. Such appeals shall be filed with the Secretary of the Metropolitan Area Planning Commission within thirty (30) days of the decision or determination appealed from. The Secretary of the Metropolitan Area Planning Commission shall fix a reasonable time for the hearing of appeals, giving notice the appealing party or parties at least fifteen (15) days prior to such hearing. Appeals shall be decided within a reasonable time. At appeal hearings, any party may appear in person, by agent or by attorney. The Subdivision Committee may reverse or affirm, in whole or in part, or modify the decision or determination appealed from and make such order, requirement, decision or determination as may be appropriated under the circumstances.
- c. Any person aggrieved by the decision or determination of the Subdivision Committee may appeal such decision or determination to the Metropolitan Area Planning Commission. The procedure for such appeals shall be as set forth above in subsection (b) for appeals from decisions by the Administrator.
- d. Any person aggrieved by the decision or determination of the Metropolitan Area Planning Commission may appeal such decision or determination to the City Council. The City Council will review such decision or determination in the manner provided above for appeals from decisions by the Administrator; except that such appeals shall be filed with the City Clerk and the notice to the appealing party or parties shall be provided at least five (5) days prior to such hearing.

SECTION 3. Section 27.04.120 of the Code of the City of Wichita, Kansas, shall read as follows:

"General standards for flood hazard reduction. In all areas of special flood hazards (Zones A, A1-30, AE, AO, AH) the following provisions are required:

- a. All new construction, including manufactured homes and substantial improvements, shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure; resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- c. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- d. All new and placement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- e. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters and;
- f. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
- g. If otherwise permitted by zoning ordinances of the City of Wichita, storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily movable from the area within the time available after flood warning;
- h. That until a floodway has been designated, no development, including landfill may be permitted within Zones AI-30 and AE on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the one-hundred-year flood more than (1) one foot on the average cross-section of the reach in which the development or landfill is located, as shown on the Flood Insurance Study for the City of Wichita, which is incorporated by reference in Section 27.04.040 of this chapter.
- i. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION 4. Section 27.04.130 of the Code of the City of Wichita, Kansas, shall read as follows:

“Flood Hazard Reduction Standards for Subdivision Proposals and Other Proposed New Developments Including Manufactured Home Parks or Subdivisions.

- a. All proposed subdivisions shall be consistent with the need to minimize flood damage.
- b. All proposed subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- c. All proposed subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- d. Base flood elevation data, when not available, shall be provided by the applicant for all proposed subdivisions.

SECTION 5. Section 27.04.140 of the Code of the City of Wichita, Kansas, shall read as follows:

“Specific standards for flood hazard reduction.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 27.04.040 or Section 27.04.090(c), the following provisions are required:

- a. **Residential Construction** - New construction or substantial improvement of any residential structure shall have the lowest floor elevated to or above one foot above the base flood elevation.
- b. **Non-residential Construction** - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor elevated to or above one foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 27.04.090(c) of this chapter.
- c. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. **Manufactured Homes.**
 1. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with state and local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - i. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than fifty feet long requiring one additional tie per side;
 - ii. Frame ties be provided at each corner of the home, with five (5) additional ties per side at intermediate points and manufactured homes less than fifty feet long requiring four additional ties per side;
 - iii. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds;
 - iv. Any additions to manufactured homes be similarly anchored.
 2. Require that all manufactured homes to be placed within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 27.04.140(d)(1).
 3. Nothing herein shall be construed to limit or supersede the requirements of Chapter 26.04 of the City Code relating to mobile and manufactured homes.

SECTION 6. Section 27.04.150 of the Code of the City of Wichita, Kansas, shall read as follows:

“Floodways.

Located within areas of special flood hazard established in Section 27.04.040 of this chapter, are areas designated as floodways. Since the floodway may be an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in the base flood elevation anywhere on the subject flooding source during occurrence of the base flood discharge.
- b. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Section 27.04.130(d) of this chapter in meeting the standards of this section.
- c. If Section 27.04.150(a) of this chapter is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 27.04.120; 27.04.130; and 27.04.140 of this chapter. “

SECTION 7. Section 27.04.160 of the Code of the City of Wichita, Kansas, shall read as follows:

“Areas of Shallow Flooding.

Located within the areas of special flood hazard established in Section 27.04.040 of this code, are areas designated as shallow flooding. 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; therefore, the following provisions apply:

a. Within AO Zones:

1. All new construction and substantial improvement of residential structures shall have the lowest floor elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community’s FIRM (at least two (2) feet if no depth number is specified);
2. All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the City of Wichita’s FIRM (at least two (2) feet if no depth is specified), or
 - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above one (1) foot above the level specified in subsection (i) herein above so that any space below that level 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.
3. The anchoring requirements for mobile homes as established in Section 27.04.140(c) of this chapter shall be required.”

SECTION 8. Section 27.04.170 of the Code of the City of Wichita, Kansas, shall read as follows:

“Non-conforming Use.

- a. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
 1. If such use is discontinued for twenty-four (24) consecutive months, any future use of the building premises shall conform to this chapter.
 2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to

comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.”

SECTION 9. Section 27.04.180 of the Code of the City of Wichita, Kansas, shall read as follows:

“Amendments.

The regulation, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or appealed to reflect changes in the National Flood Disaster Protection Act of 1973; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days’ notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Wichita. A copy of such amendments will be provided to the Federal Emergency Management Agency. Changes in the Flood Insurance Rate Map (FIRM) may be made without the necessity of the public hearing and public notice set forth above. The regulations of this code are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.”

SECTION 10. The originals of Sections 27.04.030, 27.04.100, 27.04.120, 27.04.130, 27.04.140, 27.04.150, 27.04.160, 27.04.170, and 27.04.180, of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 11. This Ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

Adopted at Wichita, Kansas, this 22nd day of May, 1990.

ROBERT G. KNIGHT
Mayor

ATTEST: (Seal)
JOHN MOIR,

Director of Finance/City Clerk

Approved as to Form:
THOMAS R. POWELL
Director of Law