

**ORDINANCE NO. 18-10930**

**AN ORDINANCE AMENDING AND RESTATING ARTICLE VIII, CHAPTER 42 OF THE SALINA CODE RELATED TO FLOODPLAIN MANAGEMENT AND REPEALING THE EXISTING ARTICLE.**

**BE IT ORDAINED** by the Governing Body of the City of Salina, Kansas ("City"):

**Section 1. Amendment.** Article VIII, Chapter 42 of the Salina Code is amended and restated to read as follows:

**DIVISION I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSES, AND DEFINITIONS**

Section 42-426. STATUTORY AUTHORIZATION AND FINDINGS OF FACT

1. *Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on April 2, 2018.

2. *Kansas 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.

3. *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of the city of Salina, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

4. *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

5. *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this article uses a standard engineering method of analyzing flood hazards, which consists of a series of interrelated steps.

- a. 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 ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials.
- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

Section 42-427. STATEMENT OF PURPOSE

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

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

Section 42-428. DEFINITIONS.

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

**"100-year Flood"** *see "base flood."*

**"Accessory Structure"** means the same as *"appurtenant structure."*

**"Actuarial Rates"** *see "risk premium rates."*

**"Administrator"** means the Federal Insurance Administrator.

**"Agency"** means the Federal Emergency Management Agency (FEMA).

**"Agricultural Commodities"** means agricultural products and livestock.

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

**"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.

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

**"Area of Shallow Flooding"** means a designated AO or AH zone on the city's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of Special Flood Hazard"** is the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Base Flood Elevation (BFE)"** means the elevation of the surface of the water during a one percent annual chance flood event.

**"Basement"** means any area of the structure having its floor subgrade (below ground level) on all sides.

**"Building"** *see "structure."*

**“Chief Engineer”** means the chief engineer of the division of water resources, Kansas Department of Agriculture.

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

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

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

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

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

**"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the city.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"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 runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood,

or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of the city on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.

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

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

**"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

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

**"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

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

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.

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

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

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

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this article.

**"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for the city issued by the Federal Emergency Management Agency (FEMA).

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

**"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the city's Flood Insurance Rate Map (FIRM) are referenced.

**"New Construction"** means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by the city and includes any subsequent improvements to such structures.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Numbered A Zone"** means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.

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

**"Permit"** means a signed document from a designated city official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

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

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

**"Reasonably Safe From Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

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

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

**"Special Flood Hazard Area"** *see "area of special flood hazard."*

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

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

**"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 determined.

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

**"Violation"** means the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

## **DIVISION 2. GENERAL PROVISIONS**

### **Section 42-429. LANDS TO WHICH ARTICLE APPLIES**

The Flood Insurance Study of the City of Salina (Effective Date: April 18, 2018) including the Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management

Agency (FEMA) consisting of the Map Index Sheet, dated April 18, 2018, is hereby adopted and incorporated by reference as the Official Floodplain Map for the purpose of identifying all land within the jurisdiction of the City of Salina, Kansas, to which this article applies.

In all areas covered by this article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the city under such safeguards and restrictions as the city may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the city, and as specifically noted in Division 4.

#### Section 42-430. FLOODPLAIN OVERLAY DISTRICTS.

1. The Official Floodplain Map shall be applied as two (2) overlay districts. Land uses not meeting the development standards of this article and those articles of the underlying zoning districts are prohibited.
  - (a) Floodway Overlay District (FW): The FW District boundaries are identified on the FIRM as the FEMA Floodway and shall be consistent with those boundaries.
  - (b) Floodway Fringe Overlay District (FF): The FF District boundaries are identified on the FIRM as numbered and unnumbered A Zones (including A, AE, AO and AH Zones) and shall be consistent with those boundaries.
2. The boundaries of the floodway (FW) and floodway fringe (FF) overlay districts shall be determined by scaling distances on the official zoning map or on the flood insurance rate map or floodway map. Where interpretation is needed to determine the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the board of zoning appeals will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present testimony and technical evidence to the board of zoning appeals.

#### Section 42-431. COMPLIANCE

No development located within the special flood hazard areas of the city shall be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

#### Section 42-432. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

Section 42-433. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

Section 42-434. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This article shall not create a liability on the part of the city, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

Section 42-435. SEVERABILITY

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

**DIVISION 3. ADMINISTRATION**

Section 42-436. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Division 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

Section 42-437. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

Pursuant to the authority of the city manager, and under the direction of the director of the community and development services department, the zoning administrator is hereby appointed to administer and implement the provisions of this article and is referred to in this article as the floodplain administrator.

Section 42-438. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator under this article shall include, but not be limited to:

1. review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required by federal, state, or local law;
3. review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. issue floodplain development permits for all approved applications;
5. notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
7. verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. when floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

#### Section 42-439. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

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

1. describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. identify and describe the work to be covered by the floodplain development permit;
3. indicate the use or occupancy for which the proposed work is intended;

4. indicate the assessed value of the structure and the fair market value of the improvement;
5. specify whether development is located in designated flood fringe or floodway;
6. identify the existing base flood elevation and the elevation of the proposed development;
7. give such other information as reasonably may be required by the floodplain administrator;
8. be accompanied by plans and specifications for proposed construction; and
9. be signed by the permittee or the permittee's authorized agent who may be required to submit evidence to indicate such authority.

#### **DIVISION 4 PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### Section 42-440. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance or 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If Flood Insurance Study data is not available, the city shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the city.
4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
  - a. design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. construction with materials resistant to flood damage;

- c. utilization of methods and practices that minimize flood damages;
- d. all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- e. new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
- f. subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
  - (1) all such proposals are consistent with the need to minimize flood damage;
  - (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  - (3) adequate drainage is provided so as to reduce exposure to flood hazards; and
  - (4) all proposals for development, including proposals for manufactured home parks and subdivisions, of greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. *Storage, Material, and Equipment*

- a. The storage of material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

6. *Nonconforming Use*

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

- a. The extension, expansion, enlargement, or addition to any nonconforming use of a structure shall be governed by section 42-579.

- 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 (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

7. *Agricultural Structures.* Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; the structure meets the following floodplain management requirements; and a floodplain development permit has been issued.

Any permit granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any permit issued for agricultural structures that are constructed at-grade and wet-floodproofed:

- a. All proposed agricultural structures shall demonstrate that no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
- b. Use of the structures must be limited to agricultural purposes in any special flood hazard area only as identified on the city's Flood Insurance Rate Map (FIRM).
- c. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Division 4, Section A (4)(b) of this article.
- d. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Division 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- e. Any mechanical, electrical, or other utility equipment must be located (1) one foot above the base flood elevation or floodproofed so that they are contained

within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Division 4, Section A (4)(d) of this article. The elevation shall be certified by a licensed land surveyor or professional engineer.

- f. The agricultural structures must meet all National Flood Insurance Program (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 Division 4, Section B (1)(c) of this article.
  - g. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Division 4, Section E(2) of this article. No permits may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.
  - h. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
  - i. Wet-floodproofing construction techniques must be reviewed and approved by the floodplain administrator. The floodplain administrator 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 to be paid by the developer.
8. *Accessory Structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided 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:

- a. Use of the accessory structures must be solely for parking and limited storage purposes in any special flood hazard area as identified on the city's Flood Insurance Rate Map (FIRM).
- b. 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 Division 4, Section A (4)(b) of this article.
- c. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Division 4, Section A (4)(a) of this article. 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.
- d. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Division 4, Section A (4)(d) of this article.
- e. 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 Division 4, Section B (1)(c) of this article.
- f. The accessory structures must comply with the floodplain management floodway encroachment provisions of Division 4, Section E (2) of this article. 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.
- g. Equipment, machinery, or other contents must be protected from any flood damage.
- h. 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.
- i. Wet-floodproofing construction techniques must be reviewed and approved by the city. The city 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 to be paid by the developer.

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

#### Section 42-441. SPECIFIC STANDARDS

1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Division 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation, unless the lowest floor meets the requirements of a below-grade crawlspace as provided in Division 4, Section B.1.d. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor. A registered professional engineer or architect shall verify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. Such certification shall be provided to the floodplain administrator as set forth in Division 3, Section C(7)(8)(9).

- c. *Enclosures Below Lowest Floor*

New construction and substantial-improvements of fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two (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; and
- (2) The bottom of all openings shall be no higher than one (1) 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 flood waters.

d. *Crawl Spaces and Below-Grade Crawl Spaces*

- (1) The velocity of floodwaters at the site shall not exceed 5 feet per second for any crawlspace, as calculated by a registered professional engineer. For velocities in excess of 5 feet per second, other foundation types should be used or the design must be reviewed and approved by a registered architect or professional engineer.
- (2) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (3) The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent grade.
- (4) Portions of the building below one foot above the BFE must be constructed with materials resistant to flood damage. This includes the foundation walls of the crawlspace used to elevate the building, any joists, insulation, or other materials that extend below the BFE.
- (5) Any building utility systems, including ductwork, within the crawlspace must be elevated one foot above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. The elevation shall be certified by a licensed land surveyor or professional engineer.
- (6) The interior grade of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG).
- (7) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point.
- (8) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained

within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

#### Section 42-442. MANUFACTURED HOMES

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the city's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. Manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the city's FIRM:
  - a. located outside of a manufactured home park or subdivision;
  - b. located in a new manufactured home park or subdivision;
  - c. located in an expansion to an existing manufactured home park or subdivision; or
  - d. located in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood,  
  
must 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. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to the same level as the lowest floor. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.
3. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within any unnumbered and numbered A zones, AE and AH zones, on the city's FIRM, that are not subject to the provisions of Division 4, Section C(2) of this article must be elevated so that either:
  - a. the lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
  - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral

movement. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to the same level as the lowest floor. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

#### Section 42-443. RECREATIONAL VEHICLES

Recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the city's FIRM must either:

1. be on the site for fewer than 180 consecutive days, *or*
2. be fully licensed and ready for highway use\*; *or*
3. meet the permitting, elevation, and anchoring requirements for manufactured homes of this article.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

#### Section 42-444. AREAS OF SHALLOW FLOODING (AO and AH zones)

Located within the areas of special flood hazard as described in Division 2, Section A are areas designated as 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. The following provisions apply:

1. *AO Zones*
  - a. All new construction and substantial-improvements of residential structures, including manufactured 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 FIRM (at least two (2) feet if no depth number is specified).
  - b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured 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 FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that level so that 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.

- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.
2. *AH Zones*
    - a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Division 4, Section B.
    - b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

#### Section 42-445. FLOODWAY

Located within areas of special flood hazard established in Division 2, Section A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The city adopts as its regulatory floodway the area designated as the floodway (FW) district based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. All encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited within the floodway (FW) district unless it has been approved as a variance based upon a prerequisite certification by a licensed professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.
3. The city may permit encroachments within the floodway (FW) district that would result in an increase in base flood elevations, provided that the city 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.
4. If Division 4, Section E(2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Division 4.
5. Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the floodway (FW) district to the extent that they are not prohibited by any other ordinance and are consistent with the underlying zoning district. No use shall increase the flood levels of the base flood.

6. In unnumbered A zones, the city shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in Division 4, Section A(2).

## **DIVISION 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES**

### **Section 42-446. DESIGNATION OF APPEAL BOARD**

The board of zoning appeals, as established by the City of Salina, is designated as the appeal board.

### **Section 42-447. RESPONSIBILITY OF APPEAL BOARD**

1. The appeal board shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.
2. Where an application for a floodplain development permit is denied by the floodplain administrator, the applicant may apply for such floodplain development permit directly to the appeal board.
3. The appeal board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
4. All proceedings of the appeal board shall be in accordance with the hearing and notification process outlined in section 42-597.

### **Section 42-448. FURTHER APPEALS**

Any person, official, or governmental agency dissatisfied with any order or determination of the appeal board may appeal such decision to the district court as provided in K.S.A. 12-759. Such appeal shall be filed within 30 days of the final decision of the appeals board.

### **Section 42-449. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA**

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

1. danger to life and property due to flood damage;
2. danger that materials may be swept onto other lands to the injury of others;
3. susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. importance of the services provided by the proposed facility to the city;

5. necessity to the facility of a waterfront location, where applicable;
6. availability of alternative locations, not subject to flood damage, for the proposed use;
7. compatibility of the proposed use with existing and anticipated development;
8. relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. safety of access to the property in times of flood for ordinary and emergency vehicles;
10. expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and
11. costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

Section 42-450. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any significant increase in flood discharge or base flood elevation would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. The city shall notify the applicant in writing over the signature of the floodplain administrator that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.
7. The city shall maintain a record of all variance actions, including justification for their issuance.
8. Variances may be issued by the city 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 1 through 5 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.

#### **DIVISION 6 PENALTIES FOR VIOLATION**

##### **Section 42-451. VIOLATIONS.**

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall be governed by section 42-599. Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **DIVISION 7 AMENDMENTS**

##### **Section 42-452. AMENDMENTS TO REGULATIONS.**

The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the official newspaper of the city. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this article are in compliance with the NFIP regulations.

**Secs. 42-454--42-455. Reserved.**

**Section 2. Repealer.** Existing Salina Code Chapter 42, Article VIII is repealed.

**Section 3. Effective.** This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 18-10930 Summary

On April 9, 2018, the City Commission passed Ordinance No. 18-10930. The Ordinance amends and restates Salina Code Chapter 42, Article VIII pertaining to floodplain management and repeals the existing article. A complete copy of the Ordinance can be found at [www.salina-ks.gov](http://www.salina-ks.gov) or in the office of the City Clerk, 300 W. Ash, free of charge. This summary is certified by the City's legal counsel.

Introduced: March 26, 2018  
Passed: April 9, 2018

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Trent W. Davis, M.D., Vice-Mayor

[SEAL]  
ATTEST:

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Shandi Wicks, CMC, City Clerk

The publication summary set forth above is certified this \_\_\_\_ day of April, 2018.

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Greg A. Bengtson, City Attorney