

BILL NO. 23-097

ORDINANCE NO. 19508

AN ORDINANCE AMENDING THE CITY OF INDEPENDENCE CITY CODE BY AMENDING CHAPTER 17 "MUNICIPAL SERVICES REGULATIONS" MAKING NECESSARY UPDATES, CLARIFYING RIGHT-OF-WAY POLICY, AND UPDATING FLOODPLAIN POLICY.

WHEREAS, City Staff have determined it necessary to update Chapter 17 of the City Code in order to clarify Right-of-Way policy; and

WHEREAS, City Staff have determined it necessary to update Chapter 17 of the City Code to clarify and update Floodplain policy in accordance with national standards.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That Chapter 17, and sections therein, are hereby amended to read as follows:

Chapter 17
MUNICIPAL SERVICES REGULATIONS

ARTICLE 2. STORM DRAINAGE IN PUBLIC RIGHTS-OF-WAY

Sec. 17.02.001. Driveway culverts.

All driveways must provide adequate storm drainage facilities to prevent storm water drainage from running onto a public street or across a driveway during a 25 year flood event. All driveway culverts shall be sized by the Department of Municipal Services in accordance with the Design and Construction Manual. Driveway culvert installation requires a street or right-of-way opening permit. ~~The City will, if approved and in accordance with the Public Works Manual, install driveway pipes when the appropriate pipe is provided by the property owner. The City does not maintain driveway pipes.~~

ARTICLE 5. USE AND MANAGEMENT OF RIGHT-OF-WAY

Sec. 17.05.006 Permit conditions.

C. Permit Fees:

1. Any right-of-way or permit fee involving the right-of-way provided for in this Code, actions of City Council such as passage of the budget or other policy of the City may be raised from time to time by posting same on the City's website and in the City Clerk's office 30 days before the effective date of same and providing electronic notice to the registered ROW-users of such posting. The ROW-user may file an objection to any fee and if it does so, the fee shall be reviewed by the City Manager and approved, modified or rejected through a motion, resolution or ordinance. The payment of this fee and deposit shall not excuse or exempt the ROW-user from all costs it is liable for under this article. The right-of-way permit fee and temporary traffic control permit fee shall be recommended by the Director, approved by the City Council and listed in the Schedule of Fees and Charges maintained in the City Clerk's Office .
2. Right-of-way permit fees and temporary traffic control permit fees shall be:
 - A. Based on the actual, substantiated costs reasonably incurred by the City in managing the right-of-way and may include the following in accordance with the Schedule of Fees;
 1. Length of work zone;
 2. Affected intersections;
 3. Hole openings, street cuts, and/or bores; and
 4. Utility connection and/or disconnection points
 - B. Based on an allocation among all users of the right-of-way, including the City, which shall reflect the proportionate costs imposed on the City by each of the various types of uses of the right-of-way;
 - c. Imposed on a competitively neutral and nondiscriminatory basis;

- d. Imposed in a manner so that above ground uses of the right-of-way do not bear costs incurred by the City to regulate underground uses of the right-of-way; and
- e. Shall not be offset or construed to replace any business license or other tax the ROW-user is subject to under applicable ordinance, contract, Charter Provision, Code or state law.
- 3. In determining the actual costs reasonably incurred by the City in managing the right-of-way, the City may include the following:
 - A. The cost of issuing, processing and verifying right-of-way permit and temporary traffic control permit applications may include, but are not limited to the following items throughout the right-of-way:
 - B. The cost of inspecting job sites, traffic control installations and conditions, and restoration projects;
 - C. The cost of protecting or moving ROW-user construction equipment and materials after reasonable notification to the ROW-user;
 - D. The cost of determining the adequacy of public right-of-way restoration;
 - E. The cost of restoring temporary traffic control, excavation, or work inadequately performed after providing notice and the opportunity to correct the temporary traffic control, excavation, or work, including re-inspection fees;
 - F. The cost of revoking right-of-way permits or temporary traffic control permits.
- 4. Fees paid for a right-of-way permit or a temporary traffic control permit, which is subsequently revoked by the City Engineer, are not refundable.
- 5. The right-of-way permit fee shall be imposed on a per basis schedule of continuous linear work ~~of not more than five hundred (500) feet in length~~ as identified in the Schedule of Fees.
- 6. The temporary traffic control permit fee shall be imposed on a per basis schedule ~~every five hundred (500) feet in length~~, per week basis, or per intersection per week basis, whichever is greater.
- 7. In the event the scope of the project is revised during the course of the excavation or work, the City Engineer may recalculate the fee based on the actual size of the excavation or work, and may require an additional right-of-way permit fee.
- 8. In the event the scope of the project changes such that temporary traffic control is revised, the City Engineer may recalculate the fee based on the actual impact, and may require an additional temporary traffic control permit fee but in no event shall the City grant credits or refunds based on an overpayment of the permit fee.
- 9. The City Engineer may establish a system providing for payment of right-of-way permit fees by ROW-users in bulk.
- 10. A pavement cut fee will be paid by all permit users in accordance with the City's Schedule of Fees and such payment shall be in addition to any other right-of-way permit fees.
- 11. In addition to any other permit fee, a street crossing fee for boring as set out on the City's Schedule of Fees shall be paid when boring under City streets and alleys is to take place.

Sec. 17.05.022. Temporary traffic control, excavation or work restoration.

- A.** After any temporary traffic control, excavation or work, the ROW-user shall, at its expense, restore all portions of the right-of-way in accordance with the Construction and Design Manual and applicable policies set forth by the Director.
- B.** If excavation or work cannot be back-filled immediately and is left unattended, the ROW-user shall securely and adequately cover and mark the unfilled excavation or work. The ROW-user shall maintain as sole responsibility for maintaining proper temporary traffic control, barriers, safety fencing, signage, and/or lights as required, from the time of the opening of the excavation or work until the excavation or work is surfaced and opened for travel.
- C.** Plated cuts. If plates are used to cover a roadway excavation, the Director of Municipal Services shall be notified. Plates must be milled in place and flush with roadway surfaces and secured in place. Additionally, a lighted barricade shall be placed beside the roadway at the location of the plate. The Director may deny the use of plates, set restrictions on use of plates, and may direct the removal of plates at any time. The Right-of-Way User and approved, registered contractors, in accordance with Chapter 17, Article 5, are responsible for the maintenance of the plates on the roadway at all times and must be available to repair, replace, or remove plates at all times during their use.
- D.** In addition to repairing its own street cuts, The ROW-user must restore any area within five feet twenty (20) ten (10) feet of the limits of the new street cut that have previously been excavated by any entity, including all the paving and its aggregate foundations as determined by the Director.
- E.** Any street cuts that occur along a corridor that has been paved within the previous 36 months will be subject to a full pavement resurfacing in accordance with the Design and Construction Manual and

applicable policies as determined by the City Engineer. ~~The resurfacing will be the full width of the lane and All street resurfacing, regardless of the age of the roadway, will be a length that encompasses all street cut locations of the work zone, but a minimum of 15 feet in length.~~

F. All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the Director. However, a ROW-user shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed facilities without the approval of the owner of the facilities.

1. The Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do additional and necessary excavation or work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the ROW-user and a reasonable time not to exceed 15 days will be provided to allow for the deficiencies to be corrected.
2. Any deficiencies not corrected shall be considered a "failure to restore" and the City shall proceed according to this article. Upon determination by the Director that the failure to repair or replace creates a threat to public safety, all such repair or replacement shall be corrected within 24 hours of notice from the City, or the Director may direct the City to make such repair or replacement at the ROW-user's expense.

ARTICLE 6. CURBS AND SIDEWALKS

Sec. 17.06.002. Maintenance.

No owner or occupant of any house, building, or premises shall permit or allow the sidewalk, or any curbing or guttering in front or along side of such house, building, lot, or premises to be removed or remain out of repair, or shall suffer or allow such sidewalk, curbing, or guttering to be or remain above or below the established grade of the same, except as approved by the Director of Municipal Services. Prior to the approval of a Survey Development, the Community Development Department will inspect the existing facilities and require proper maintenance to occur prior to issuance of any building permit.

It shall be the duty of all persons owning or occupying any property fronting upon any street to keep the right-of-way area, including sidewalk, parkway between the sidewalk and street, curbing, or guttering in front and alongside such property and on the same side of the street in good order and to clean the same and remove from any such sidewalk, parkway between the sidewalk and street, curbing, and guttering all ice, snow, earth, or other substances that obstruct or render the same dangerous.

ARTICLE 7. FLOODPLAIN MANAGEMENT ORDINANCE

Sec. 17.07.001. Statutory authorization, findings of fact, and purposes.

A. *Statutory Authorization.* The Legislature of the State of Missouri has in RSMo 89.020 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of the City of Independence, Missouri ordains as follows:

B. *Findings of Fact.*

1. *Flood Losses Resulting from Periodic Inundation.* The special flood hazard areas of Independence, Missouri are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
2. *General Causes of the Flood Losses.* These flood losses are caused by (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.
3. *Methods Used to Analyze Flood Hazards.* The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards which consist 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 ordinance. 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 for Jackson County, Missouri dated ~~January 20, 2017~~ **December 7, 2023** as amended, and any future revisions thereto.

- b. Calculation of water surface profiles 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 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 flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.
- C. *Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article I, Section B (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 CFR 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this ordinance 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.

Sec. 17.07.002. General provisions.

- A. *Lands to Which Ordinance Applies.* This ordinance shall apply to all lands within the jurisdiction of the City of Independence, Missouri identified as numbered and unnumbered A zones, AE, AO, and AH Zones, on the Flood Insurance Rate Maps (FIRMs) for Jackson County on map panels, ~~29095C0164G, 29095C0168G, 29095C0169G, 29095C0190G, 29095C0193G, 29095C0194G, 29095C0213G, 29095C0214G, 29095C0276G, 29095C0277G, 29095C0278G, 29095C0279G, 29095C0281G, 29095C0282G, 29095C0283G, 29095C0284G, 29095C0286G, 29095C0287G, 29095C0289G, 29095C0291G, 29095C0292G, 29095C0293G, 29095C0294G, 29095C0301G, 29095C0302G, 29095C0303G, 29095C0304G, 29095C0306G, 29095C0307G, 29095C0308G, 29095C0309G, 29095C0311G, 29095C0312G, 29095C0313G, 29095C0314G, 29095C0316G, 29095C0317G, 29095C0327G, and 29095C0330G, dated January 20, 2017 and on the Flood Insurance Rate Map (FIRM) panel numbers 29095C0164H, 29095C0190H, 29095C0193H, 29095C0276H, and 29095C0277H dated December 7, 2023~~ as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in ~~Section 17.07.004~~ **Article 4.**
- ~~B. *Floodplain Administrator.* The Municipal Services Director is hereby designated as the Floodplain Administrator under this ordinance.~~
- CB.** *Compliance.* No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
- DC.** *Abrogation and Greater Restrictions.* It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- ED.** *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 State statutes.
- FE.** *Warning and Disclaimer of Liability.* The degree of flood protection required by this ordinance 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 ordinance 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 ordinance shall not create a liability on the part of the City of Independence, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

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

Sec. 17.07.003. Administration.

- A. *Floodplain Development Permit Required.* 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 Article 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.
- B. *Designation of Floodplain Administrator.* The Municipal Services Director is hereby appointed to administer and implement the provisions of this ordinance.
- C. *Duties and Responsibilities of Floodplain Administrator.* Duties of the Municipal Services Director shall include, but not be limited to:
1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
 2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
 3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
 4. Issue floodplain development permits for all approved applications;
 5. Notify adjacent communities and the Missouri State Emergency Management Agency (Mo SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
 6. Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.
 7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
 8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved nonresidential structures have been floodproofed;
 9. When floodproofing techniques are utilized for a particular nonresidential structure, the Municipal Services Director floodplain administrator shall require certification from a Missouri registered professional engineer or architect.
- D. *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 ~~fair market~~ 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 ~~Municipal Services Director~~ floodplain administrator;
 8. Be accompanied by plans and specifications for proposed construction; and
 9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Sec. 17.07.004. Provisions for flood hazard reduction.**A. General Standards.**

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, 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 (aka 100-year)** flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Construction with materials resistant to flood damage;
 - c. Utilization of methods and practices that minimize flood damages;
 - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
 - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (1) All such proposals are consistent with the need to minimize flood damage;
 - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.
5. Storage, material, and equipment.
 - a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.
6. Accessory Structures. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued. **Wet-floodproofing is only allowed for small low-cost structures.**
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; ~~a variance has been granted from the floodplain management requirements~~

~~of this ordinance;~~ **the structure meets the following floodplain management requirements;** and a floodplain development permit has been issued

B. *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 Article 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 and utility systems (including ductwork), elevated to one **(1)** foot above base flood elevation ~~or otherwise floodproofed.~~ **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 Missouri licensed land surveyor, engineer, or architect.**
 - b. Nonresidential Construction. New construction or substantial-improvement of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one **(1)** foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. **Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor.** A Missouri registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in ~~Section 3, C(9)~~ **Article 3, Section C (7), (8), (9).**
 - c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - (2) The bottom of all opening shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. *Manufactured Homes.*

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, 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 homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
 - a. Outside of manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one 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 same level as the lowest floor. The elevation of the lowest floor shall be certified by a Missouri licensed land surveyor, engineer, or architect.**
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of ~~Section 4, C(2)~~ **Article (4), Section C(2)** of this ordinance, be elevated so that either:

- a. The lowest floor of the manufactured home is at one **(1)** foot above the base flood level. **Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor;** 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 be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- D. *Areas of Shallow Flooding (AO and AH zones).* Located within the areas of special flood hazard as described in Article 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 and utility systems (including ductwork), elevated above the highest adjacent grade at least as high as **one (1) foot above** the depth number specified in feet on the community's FIRM (at least two **(2)** feet **plus one (1) foot** if no depth number is specified) ~~or otherwise floodproofed.~~
 - b. All new construction and substantial-improvements of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least **one (1) foot above** as high as the depth number specified in feet on the community FIRM (at least two **(2)** feet **plus one (1) foot** if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that 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 Article 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.
- E. *Floodway.* Located within areas of special flood hazard established in ~~Section 2, A~~ **Article 2, Section A** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:
- 1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one **(1)** foot at any point.
 - 2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 3. If ~~Section 4, E(2)~~ **Article 4, Section D(2)** is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 4.
 - 4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in ~~Section 4, A(2)~~ **Article 4, Section A(2)**.
- F. *Recreational Vehicles.*
- 1. Require that recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE, and AH zones on the community's FIRM either:
 - a. Be on the site for fewer than 180 consecutive days,
 - b. Be fully licensed and ready for highway use*; or
 - c. Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this ordinance.

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

Sec. 17.07.005. Floodplain management variance procedures.

- A. *Establishment of Appeal Board.* The Board of Building and Engineering Appeals as established by Independence shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.
- B. *Responsibility of Appeal Board.* Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the ~~Municipal Services Director~~ **floodplain administrator**, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in ~~Section 5-A, Article 5, Section A.~~ **The Board of Building and Engineering Appeals 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 ~~Municipal Services Director~~ **floodplain administrator** in the enforcement or administration of this ordinance.
- C. *Further Appeals.* Any person aggrieved by the decision of the ~~Board of Building and Engineering Appeals~~ **appeal board** or any taxpayer may appeal such decision to the Jackson County Circuit as provided in RSMo 89.110.
- D. *Floodplain Management Variance Criteria.* In passing upon such applications for variances, the Board of Building and Engineering Appeals shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:
1. ~~The d~~ **D**anger to life and property due to flood damage;
 2. ~~The d~~ **D**anger that materials may be swept onto other lands to the injury of others;
 3. ~~The s~~ **S**usceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. ~~The i~~ **I**mportance of the services provided by the proposed facility to the community;
 5. ~~The n~~ **N**ecessity to the facility of a waterfront location, where applicable;
 6. ~~The a~~ **A**vailability of alternative locations, not subject to flood damage, for the proposed use;
 7. ~~The c~~ **C**ompatibility of the proposed use with existing and anticipated development;
 8. ~~The r~~ **R**elationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. ~~The s~~ **S**afety of access to the property in times of flood for ordinary and emergency vehicles;
 10. ~~The e~~ **E**xpected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
 11. ~~The c~~ **C**osts of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.
- E. *Conditions for Approving Floodplain Management Variances.*
1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the 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 increase in flood levels during the base flood discharge would result.
 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. A community shall notify the applicant in writing over the signature of a community official that (1a) 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 (2b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
 7. A community shall maintain a record of all variance actions, including justification for their issuance.
 8. 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 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.
- F. *Conditions for Approving Variances for Accessory Structures.* Any variance ~~permit~~ granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. ~~Variances granted Permits shall meet the following conditions, as well as those criteria and conditions set forth in Section 5, D and E of this ordinance.~~
- 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 included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.
1. Use of the accessory structures must be solely for parking and limited storage purposes only in zone ~~A~~ only 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 ~~Section 4, A-(4)(b)~~ Article 4, Section A(4)(b) of this ordinance.
 3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with ~~Section 4, A-(4)(a)~~ Article 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.
 4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with ~~Section 4-4, A-(4)(d)~~ Article 4, Section A(4)(d) of this ordinance.
 5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 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 floodwaters in accordance with ~~Section 4, B-(1)(e)~~ Article 4, Section B(1)(c) of this ordinance.
 6. The accessory structures must comply with the floodplain management floodway encroachment provisions of ~~Section 4, D(2)~~ Article 4, Section D(2) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
 7. Equipment, machinery, or other contents must be protected from any flood damage.
 8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
 9. ~~A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.~~
 10. Wet-floodproofing construction techniques must be reviewed and approved by the community and 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.
- G. *Conditions for Approving Variances for Agricultural Structures.* Any variance permit granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. ~~Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 5, D and E of this ordinance. 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 included required for any variance ~~permit~~ issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All proposed agricultural structures ~~considered for a variance from the floodplain management regulations of this ordinance~~ shall demonstrate that the ~~varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.~~
2. Use of the ~~varied structures~~ must be limited to agricultural purposes in ~~zone A~~ any special flood hazard area only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 4, A(4)(b) Article 4, Section A(4)(b) of this ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 4, A(4)(a) Article 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.
5. Any mechanical, electrical, or other utility equipment must be located one (1) 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 Section 4, A(4)(d) Article 4, Section A(4)(d) of this ordinance. ~~The elevation shall be certified by a licensed land surveyor or professional engineer.~~
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 4, B(1)(c) Article 4, Section B(1)(c) of this ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 4, D(2) Article 4, Section D(2) of this ordinance. ~~No variances permits~~ may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual flood event, also referred to as the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
- ~~10. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.~~
10. Wet-floodproofing construction techniques must be reviewed and approved by the community. The community may request approval by and 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.

Sec. 17.07.006. Penalties for violation.

1. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of the conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person, firm, corporation, or other entity who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ 500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
2. 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.

3. The imposition of such fines or penalties for any violation for non-compliance with this ordinance shall not excuse the violation or noncompliance or allow it to continue. All such violations or noncompliant actions shall be remedied within an established and reasonable time.

4.4. Nothing herein contained shall prevent the City of Independence or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 17.07.007. Amendments.

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

Sec. 17.07.008. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance 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 ordinance or a request for a variance.

APPURTENANT STRUCTURE means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION 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 EXECUTIVE OFFICER or CHIEF ELECTED OFFICIAL means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

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

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

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

ELIGIBLE COMMUNITY or PARTICIPATING COMMUNITY means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

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

EXISTING MANUFACTURED HOME PARK or SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading

or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK or SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; and/or (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 a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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 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 a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

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 ordinance.

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

MANUFACTURED HOME PARK or SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

MARKET VALUE or FAIR MARKET VALUE means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

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

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 community.

NFIP means the National Flood Insurance Program (NFIP).

NUMBERED A ZONE means a specific flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.

ONE PERCENT ANNUAL CHANCE FLOOD see "base flood"

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

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

PERMIT means a signed document from a designated community 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.

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 towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

RISK PREMIUM RATES means those rates established by the Administrator pursuant to individual 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 and AE.

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

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

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

SUBSTANTIAL-DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term includes repetitive loss buildings (see definition).

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

The term does not apply to:

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

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

The term does not apply to:

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

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

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 is not determined.

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

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

WATER SURFACE ELEVATION means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

Secs. 17.07.009—17.07.999. Reserved.

ARTICLE 13. CLEARING AND GRUBBING

Sec. 17.13.001. Application.

Application for a clearing and grubbing permit shall be made to the Director of Municipal Services, on forms furnished, and may include, but not limited to, plans in duplicate showing the nature, location, dimensions, and elevations of the area to be cleared and grubbed. This permit is required on properties where building demolition is proposed. Specifically, the following information is required.

1. Contour lines in relation to mean sea level.
2. An approved Tree Preservation and an Approved Sensitive Area Preservation Plan shall be provided in accordance with Chapter 14.
3. An erosion control plan in accordance with applicable provisions of Chapter 20, Article 16.

Sec. 17.13.002. Permits required.

An erosion control permit is required for all clearing, grubbing, grading and building construction projects, except where land disruption is 1,000 square feet or less. An application for an erosion control permit shall be made to the Public Works Director on forms furnished. The application must be accompanied by an erosion control plan prepared in accordance with applicable provisions contained herein.

Sec. 17.13.003. Financial surety.

A performance and maintenance bond, letter of credit, or other financial surety shall be provided by the owner in the amount of \$1,000.00 per acre or fraction thereof, with a maximum not to exceed \$10,000.00, and shall be provided prior to issuance of permit or beginning of any work. Release of the surety shall be two years from installation of erosion control measure.

Sec. 17.13.004. Permit fee.

No person shall perform any clearing, grubbing, grading, or building construction without first obtaining an erosion control permit and paying the permit fee.

Sec. 17.13.002 Sec. 17.13.005 Penalty.

In addition to any other remedies provided to the City, any person, firm, or corporation clearing or grubbing in violation of any provision of this article shall, upon conviction thereof, be subject to a fine of not less than \$100.00

10.02.23 dm

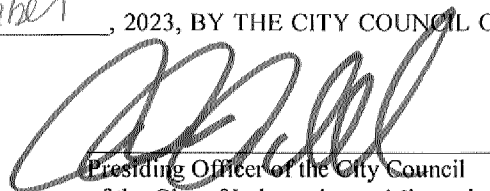
and not more than \$500.00. Each such violation shall constitute a separate and distinct offense and shall be punishable as such.

~~Secs. 17.13.003~~ 17.13.006—17.13.999. Reserved.

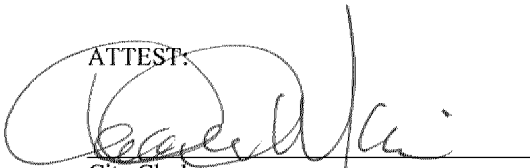
SECTION 7. That all other parts and provisions of the City Code shall be in full force and effect unless previously or subsequently amended or repealed.

SECTION 8. That correction of any scrivener's errors identified within these articles are hereby authorized by this ordinance.

PASSED THIS 6th DAY OF November, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.



Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:


City Clerk

APPROVED - FORM AND LEGALITY:



City Counselor

REVIEWED BY:



City Manager

NOTE: Words struck through are being removed by this ordinance and words underscored and bolded are being added by this ordinance.