



Franklin
COUNTY KANSAS
EST. 1855

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 22- 07

A RESOLUTION TO REVISE AND UPDATE THE FRANKLIN COUNTY FLOODPLAIN MANAGEMENT ZONING REGULATIONS BY REPEALING ARTICLE 16 OF THE FRANKLIN COUNTY ZONING REGULATIONS AND INCORPORATING BY REFERENCE NEW FLOODPLAIN ZONING REGULATIONS BASED ON THE MODEL RECOMMENDED BY FEMA AND THE KANSAS DEPARTMENT OF AGRICULTURE.

WHEREAS, in accordance with Kansas Statute, Franklin County currently regulates and manages floodplain zoning development through its floodplain zoning regulations found in Article 16 of the Franklin County Zoning Regulations; and

WHEREAS, in accordance with state and federal law, all such floodplain zoning regulations must be approved by the Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources, Floodplain Program and must coordinate with the requirements and regulations of the National Flood Insurance Act of 1968 as amended; and

WHEREAS, the Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources, Floodplain Program and the officials of the Federal Emergency Management Agency (FEMA) Region VII have recommended that Franklin County revise its floodplain management zoning regulations and adopt new regulations based upon recommended model floodplain management regulations; and,

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Board of County Commissioners did adopt the Zoning Regulations of Franklin County Kansas on August 4th, 2002 as provided in K.S.A. 12-747; and

WHEREAS, the Franklin County Planning Commission did publish notice on November 23, 2021 that a public hearing would be held to consider amendments to the Zoning Regulations of Franklin County Kansas as required by K.S.A. 12-757; and

WHEREAS, the Planning Commission did on December 16, 2021 hold a public hearing for the consideration of adopting said amendments to the Zoning Regulations as prescribed by K.S.A. 12-741 et seq, as amended; and

WHEREAS, the Planning Commission continued the public hearing to allow staff to make updates to the proposed Floodplain Management Regulations and said continued public hearing was held on January 20, 2022; and

WHEREAS, upon the recommendation of the Franklin County Planning Commission, the Governing Body has determined that is in the best interest of Franklin County to revise and update the Franklin County floodplain management zoning regulations (Article 16, Floodplain Overlay District; and, Incorporating into Article 2, Definitions, Floodplain Regulation Definitions) by repealing the current Franklin County floodplain management zoning regulations and adopting and incorporating by reference new regulations based upon the recommended model floodplain management zoning regulations recommended by FEMA and the Kansas Department of Agriculture;

WHEREAS, the Franklin County Planning Commission further reviewed amendments to the Franklin County Zoning Regulations Section 9-8.01.5; Section 9-9; Section 20-6; Section 23-8; Section 24-2.01.2.d and Section 25-3, regarding additional requirements associated with floodplain regulations; and

WHEREAS, the Planning Commission, after due consideration of all written reports, public testimony, Kansas Statutes regarding changes to Zoning Regulations, the Planning Commission, by majority of its membership, did find the following:

1. That the amendments to the County Zoning Regulations are in compliance with the Kansas Statutes; and
2. That the amendments to the County Zoning Regulations are consistent with the County Comprehensive Plan; and
3. That the amendments are consistent with the purpose and intent of the County Zoning Regulations; and
4. That said amendments are in the public interest and will further provide for the public health, safety and general welfare.

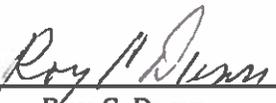
NOW, THEREFORE, Be It Resolved, by the Franklin County Board of County Commissioners, after duly reviewing the Planning Commission's recommendation, together with all written reports and public comments regarding said changes to the Franklin County Zoning Regulations, that:

1. The previous Article 16, Floodplain Overlay District Regulations, of the Franklin County Zoning Regulations and any previous resolutions or any parts of resolutions in conflict with this Resolution are hereby repealed.
2. The proposed January, 2022 Edition of Article 16, Floodplain Overlay District, including the incorporation of Floodplain Regulation Definitions into Article 2, both Articles being a part of the Franklin County Zoning Regulations for the unincorporated portion of Franklin County, Kansas, are hereby adopted pursuant to K.S.A. 12-741 et seq.
3. The said Article 16, Floodplain Overlay District, including the incorporation of Floodplain Regulation Definitions into Article 2, both Articles being a part of the Franklin County Zoning Regulations for the unincorporated portion of Franklin County, Kansas, were prepared by the Franklin County Planning Commission under the date of January, 2022, and the same is hereby declared to be approved and incorporated herein by reference as fully as if set out herein pursuant to K.S.A. 12-3301, as amended, and K.S.A. 12-3303 through 12-3305.

4. Not less than three (3) copies of the Article 16, Floodplain Overlay District, included in the Franklin County Zoning Regulations shall be filed with the County Clerk and this Article shall be marked and "Official Copy as Incorporated by Resolution Number _____", said copies to be open for inspection and available to the public at all reasonable hours.
5. The following Sections of the Franklin County Zoning Regulations are herein amended as follows:
 - Section 9-8.01.5 A mobile home park shall not be permitted within any Special Flood Hazard Area as identified on the Flood Insurance Rate Map (FIRM) adopted for Franklin County except for areas used for recreation or permanent open space. Such recreational areas or permanent open space shall be included within a non-building drainage easement and filed with the development plan. The boundaries of the drainage easement shall be certified by a licensed surveyor or professional engineer.
 - Section 9-9.01 Any development of a mobile home park and any manufacture home that is placed or substantially improved within a Special Flood Hazard Area shall be done in compliance with Article 16 of these Zoning Regulations (F-P, Floodplain Overlay District).
 - Section 20-6.01 Additional regulations regarding nonconforming uses within the F-P, Floodplain Overlay District, are presented in Section 16-5.01.6 of these Zoning Regulations.
 - Section 23-8.01 In addition to the requirements of this Article, the procedure for amending Article 16 of these Zoning Regulations (F-P, Floodplain Overlay District) is presented in Section 16-9.
 - Section 24-2.01.2.d. *Variance from the Floodplain Regulations:* As specified in Article 16 of these Regulations (F-P, Floodplain Overlay District), the Board of Zoning Appeals shall have the authority to grant variances from said floodplain regulations, provided, however, that in addition to the standards and conditions established in this Article, the Board of Zoning Appeals, in reviewing variance applications in the Floodplain Overlay District (F-P), shall consider those evaluations, factors, standards, and criteria specified in Section 16-7.
 - Section 25-3.01 Floodplain Development Permit procedures for construction or Development within the F-P, Floodplain Overlay District are set forth in Section 16-4 of these Zoning Regulations.
6. Violation of the provisions of this Floodplain Regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this Floodplain Regulation or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent Franklin County or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

7. Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, the written notice of violation shall state that the county may seek a mandatory civil injunctive order under K.S.A. 60-901 to require the owner, occupant or agent to remove the structure. If the owner, occupant or agent fails to remove the structure, the county may remove the structure and seek a civil judgment against the owner, occupant or agent for the costs of said abatement.
8. Any provision of this Article which shall be declared invalid shall not affect the validity and authority of any other sections.
9. All applications duly submitted prior to the effective date of this Resolution, with appropriate payment of all fees, and in the process of being considered by Franklin County officials under the provisions of Article 16, Floodplain Overlay District, of the Franklin County Zoning Regulations in effect prior to the effective date of this resolution, shall be considered and acted upon under the provisions of said previous Regulations.
10. This Resolution shall be in full force and effect from and after its publication once in the official county newspaper.

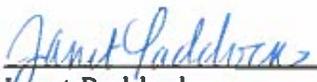
PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 9th day of February, 2022. This action shall become effective upon publication in the official county newspaper.



Roy C. Dunn
Chairman

Received and recorded this the 9th day of February, 2022.





Janet Paddock
County Clerk

Article 16

FLOODPLAIN OVERLAY DISTRICT (F-P)

Sections:

- 16-1 Intent**
- 16-2 Statutory Authorization, Findings of Fact, Methods Used to Analyze, and Purposes**
- 16-3 General Provisions**
- 16-4 Administration**
- 16-5 Provisions for Flood Hazard Reduction**
- 16-6 Floodwater Retarding Dam Breach Areas (BA)**
- 16-7 Floodplain Management Variance Procedures**
- 16-8 Violations**
- 16-9 Amendments**
- 16-10 Certificate of Adoption**

Section 16-1 Intent

This Article establishes overlay zoning districts for floodplain areas pursuant to K.S.A. 12-741 et seq., and specifically in K.S.A. 12-766 et seq., and K.A.R. 5-44 and any amendments thereto, if any, through which the State of Kansas has granted and delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Section 16-2 Statutory Authorization, Findings of Fact, Methods Used to Analyze, and Purposes

16-2.01 Statutory Authorization:

1. *Chief Engineer Approval Prior to Adoption:* The Floodplain Overlay District set forth herein in Article 16, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on January 21, 2022.
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 of the public. Pursuant to that authority the Board of County Commissioners of Franklin County, Kansas, adopted Article 16 of these regulations as part of the Floodplain Management Regulations for Franklin County, Kansas.

16-2.02 Findings of Fact:

1. *Flood Losses Resulting from Periodic Inundation:* The Special Flood Hazard Areas of Franklin County, 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.
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

KLA Environmental Services Inc. In all areas covered by this Floodplain Regulation, no development shall be permitted except through the issuance of a Floodplain Development Permit, granted by the Floodplain Administrator under such safeguards and restrictions as the Floodplain Administrator may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of unincorporated Franklin County, and as specifically noted in Section 16-5 of this Floodplain Regulation.

- 16-3.02** Compliance: No development located within the Special Flood Hazard Areas of unincorporated Franklin County shall be located, extended, converted, or structurally altered without full compliance with the terms of this Floodplain Regulation and other applicable regulations.
- 16-3.03** Abrogation and Greater Restrictions: It is not intended by this Floodplain Regulation to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Furthermore, if this Floodplain Regulation imposes greater restrictions than another Article of these regulations, then the provisions of this Floodplain Regulation shall control.
- 16-3.04** Interpretation: In the interpretation and application of this Floodplain Regulation, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of providing the greatest flood damage reduction to the public health, safety and general welfare; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.
- 16-3.05** Warning and Disclaimer of Liability: The degree of flood protection required by this Floodplain Regulation 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. Furthermore, this Floodplain Regulation does not imply that areas outside the Special Flood Hazard Area, including Flood Fringe or Floodway, or land uses permitted within such areas, will be free from flooding or flood damage. This Floodplain Regulation shall not create a liability on the part of Franklin County, Kansas, or any officer or employee thereof for any flood damage that results from reliance on this Floodplain Regulation or any administrative decision made there under.
- 16-3.06** Severability: If any section; clause; provision; or portion of this Floodplain Regulation is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this Floodplain Regulation shall not be affected thereby.

Section 16-4 Administration

- 16-4.01** Floodplain Development Permit: A Floodplain Development Permit shall be required for all proposed construction or other Development, including the placement of manufactured or mobile homes, in the areas described in Section 16-2.01. 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.
- 16-4.02** Designation of Floodplain Administrator: The Planning Director is hereby appointed to administer and implement the provisions of this Floodplain Regulation.
- 16-4.03** Duties and Responsibilities of Floodplain Administrator: Duties of the Floodplain Administrator shall include, but not be limited to:

- b. Drawing(s) showing existing and proposed elevations and contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities, and other data that will assist the Floodplain Administrator in making an evaluation of the potential flood impacts;
8. Be accompanied by plans, specifications, calculations and certifications required to accurately depict the proposed Development;
9. Be accompanied by elevations (in relation to mean sea level) of the lowest floor (including basement) or in the case of floodproofed non-residential structures, the elevation to which it has been floodproofed. Submitted documentation or verification of such elevations shall be kept by the Floodplain Administrator; and
10. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Section 16-5 Provisions for Flood Hazard Reduction

16-5.01 General Standards: No Floodplain Development Permit shall be granted for new construction, substantial-improvements, and other improvements, or other Development, including the placement of manufactured or mobile homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section (Section 16-5.01) are satisfied.

1. All areas identified as unnumbered A zones on the FIRM are subject to inundation by the Base Flood; however, the Base Flood Elevation is not provided. Development within unnumbered A zones shall be subject to all provisions of this Floodplain Regulation. If Flood Insurance Study data is not available, the Floodplain Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation or Floodway data currently available from Federal, State, or other sources.
2. 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 the applicant for a Floodplain Development Permit demonstrates 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.
3. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured or mobile homes, and other Development 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 designed and/or located to prevent water from entering or accumulating within the components during flooding;
 - e. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems, and on-site waste disposal systems that are designed to minimize or eliminate

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 Floodplain Development 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 Floodplain Development 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 community's Flood Insurance Rate Map (FIRM).
- c. For any new or substantially damaged agricultural structure, 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 16-5.01.3.b of this Floodplain Regulation.
- d. The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 16-5.01.3.a of this Floodplain Regulation. 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 Section 16-5.01.3.d of this Floodplain Regulation. **The elevation shall be certified by a licensed land surveyor or professional engineer.**
- f. The agricultural structure must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the Base Flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Section 16-5.02.3 of this Floodplain Regulation.
- g. The agricultural structure must comply with the floodplain management Floodway encroachment provisions of Section 16-5.02.6.b of this Floodplain Regulation. No permits may be issued for agricultural structures within any designated Floodway, if any increase in flood levels would result during the Base Flood.
- h. Major equipment, machinery, or other contents must be protected from any flood damage.

within any designated Floodway, if any increase in flood levels would result during the Base 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 structure.
 - i. Wet-floodproofing construction techniques must be reviewed and approved by the community. **The community 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 applicant.**
9. *Cumulative Improvement:* A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five (5) calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds fifty (50) percent of the structure's current market value, the structure must be brought into compliance with Section 16-5.02 which requires elevation of residential structures to one (1) foot above the Base Flood Elevation or the elevation/floodproofing of non-residential structures to one (1) foot above the Base Flood Elevation.

16-5.02 Specific Standards: 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 Section 16-5.01.2, the following provisions are required:

1. *Residential Construction:* New construction or substantial-improvement of any residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above Base Flood Elevation. In addition, all mechanical, heating and air conditioning units and equipment servicing a structure shall be elevated to the same level as the lowest floor, which shall be a minimum of one (1) foot above Base Flood Elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
2. *Non-Residential Construction:* New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured or mobile 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 (1) 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. In addition, all mechanical, heating and air conditioning units and equipment servicing a structure must be elevated or flood protected to the same level as the lowest floor, which shall be a minimum of one (1) foot above Base Flood Elevation. **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 Section 16-4.03, Subsections 7, 8 & 9.

minimum of one (1) foot above Base Flood Elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

5. *Areas of Shallow Flooding (AO and AH zones):* Located within the Special Flood Hazard Areas as described in Section 16-3.01 are areas designated as AO and AH 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:

a. *AO Zones*

- I. All new construction and substantial-improvements of residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement and attendant utility facilities and mechanical equipment, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
- II. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement and attendant utility facilities and mechanical equipment, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) plus one (1) foot of freeboard or together with attendant utilities and sanitary facilities and mechanical equipment be completely floodproofed so that below such 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.
- III. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

b. *AH Zones*

- I. The specific standards for all Special Flood Hazard Areas where Base Flood Elevations have been provided shall be required as set forth in Section 16-5.02, Subsections 1, 2, 3 & 4.
 - II. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.
6. *Floodway:* Located within Special Flood Hazard Areas established in Section 16-3.01, 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:
- a. 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.
 - b. 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

in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Floodplain Regulation.

16-7.03 *Further Appeals:* Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

16-7.04 *Floodplain Management Variance Criteria:* In passing upon such applications for variances, the Appeal Board, pursuant to the procedures and provisions set forth in Article 24 of these regulations, may authorize a variance from the specific terms of this Floodplain Regulation. In addition to the criteria set forth in Article 24-2.01.2.c, Subsections "1)" through "5)" of these regulations, the Appeal Board shall consider all technical data and evaluations, all relevant factors and standards specified in other sections of this Floodplain Regulation, 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 community;
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.

16-7.05 *Conditions for Approving Floodplain Management Variances:*

1. 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 three (3) through seven (7) below have been fully satisfied. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. 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 items three (3) through seven (7) below have been fully satisfied, 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.
3. Variances may be issued for the reconstruction, repair, 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

16-8.05 Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, the written notice of violation shall state that the county may seek a mandatory civil injunctive order under K.S.A. 60-901 to require the owner, occupant or agent to remove the structure. If the owner, occupant or agent fails to remove the structure, the county may remove the structure and seek a civil judgment against the owner, occupant or agent for the costs of said abatement.

Section 16-9 Amendments: The regulations, restrictions, and boundaries set forth in this Floodplain Regulation 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 a newspaper of general circulation in Franklin County. 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 Floodplain Regulation are in compliance with the NFIP regulations.

The following definitions to be added to Article 2 of the Zoning Regulations and located in Section 2-1.01 with the heading of "Floodplain Regulation Definitions:" This shall replace the listing of "Floodplain Regulations" in this section.

FLOODPLAIN REGULATION DEFINITIONS: Unless specifically defined below, words or phrases used in Article 16 (Floodplain Overlay District, F-P) shall be interpreted so as to give them the same meaning they have in common usage and to give this Floodplain Regulation its most reasonable application.

1. **100-year Flood:** *see "Base Flood."*
2. **Accessory Structure:** *See "Appurtenant Structure."*
3. **Actuarial Rates:** *See "Risk Premium Rates."*
4. **Administrator:** The Federal Insurance Administrator.
5. **Agency:** The Federal Emergency Management Agency (FEMA).
6. **Agricultural Commodities:** Agricultural products and livestock.
7. **Agricultural Structure:** Any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.
8. **Appeal:** A request for review of the Floodplain Administrator's interpretation of any provision of this Floodplain Regulation or a request for a variance.
9. **Appurtenant Structure:** 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.

24. **Existing Manufactured Home Park or Subdivision:** 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.
25. **Expansion to an Existing Manufactured Home Park or Subdivision:** 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).
26. **Flood or Flooding:** 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).
27. **Flood Boundary and Floodway Map (FBFM):** An official map of a community on which the Administrator has delineated both Special Flood Hazard Areas and the designated Regulatory Floodway.
28. **Flood Elevation Determination:** 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.
29. **Flood Elevation Study:** An examination, evaluation and determination of flood hazards.
30. **Flood Fringe:** The area outside the Floodway encroachment lines, but still subject to inundation by the Base Flood.
31. **Flood Hazard Boundary Map (FHBM):** 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.
32. **Flood Hazard Map:** 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.
33. **Flood Insurance Rate Map (FIRM):** 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.
34. **Flood Insurance Study (FIS):** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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.

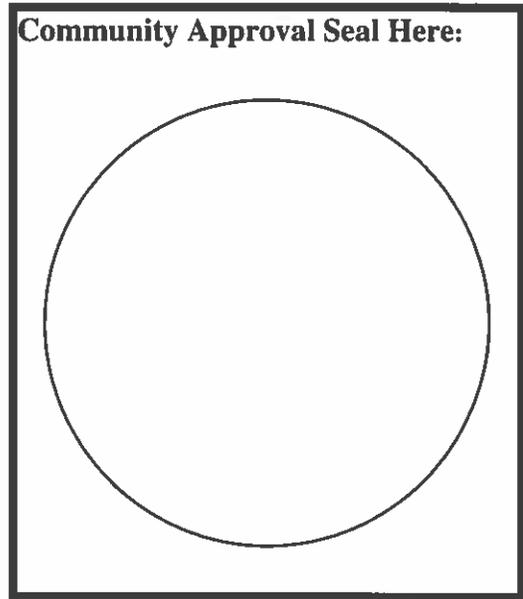
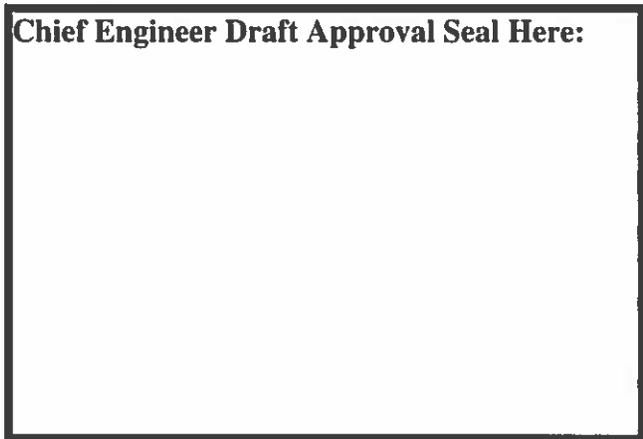
46. **Lowest Floor:** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Floodplain Regulation.
47. **Manufactured Home or Mobile Home:** For floodplain management purposes, 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 include mobile homes manufactured prior to 1976 but **does not include** a "*recreational vehicle*."
48. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
49. **Map:** 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).
50. **Market Value or Fair Market Value:** An estimate of what is fair, economic, just and equitable value under normal local market conditions.
51. **Mean Sea Level:** 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 a community's Flood Insurance Rate Map (FIRM) are referenced.
52. **New Construction:** 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 August 16, 1977, 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.
53. **New Manufactured Home Park or Subdivision:** 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.

67. **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 principal 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.
68. **State Coordinating Agency:** 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.
69. **Structure:** 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.
70. **Substantial-Damage:** 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.
71. **Substantial-Improvement:** 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*."
72. **Unnumbered A Zone:** 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.
73. **Variance:** 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.

Section 16-10 Certificate of Adoption

These Floodplain Management Regulations for Franklin County, Kansas, were PASSED AND ADOPTED by the Governing Body of Franklin County, Kansas.

This _____ day of _____, 20_____.



APPROVED:

Roy C. Dunn 2-9-22
Signature of Chief Executive Officer/Chief Elected Official Date

Roy C. Dunn Commission Chairman
Chief Executive Officer/Chief Elected Official Name (Typed/printed) Title

ATTEST:

Signature of Recording Clerk Date
Janet Paddock County Clerk
Recording Clerk Name (Typed/printed) Title

Published in official news publication *or* on website _____ (name of Publication or website address).