

Article 16

FLOODPLAIN OVERLAY DISTRICT (F-P)

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Section 16-1. Purpose

- 16-1.01 The floodplain regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Floodplain Overlay District (F-P). The purpose of this district is to promote the public health, safety and general welfare by minimizing potential losses due to flooding; to establish and maintain the County's participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22 (a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44.

Section 16-2. Applicability, Enforcement, Interpretation and Conflict

- 16-2.01 Land to Which This Article Applies: This Article shall apply to all areas of special flood hazards within unincorporated Franklin County, Kansas.
- 16-2.02 Basis for Establishing Areas of Special Flood Hazard: The Board of County Commissioners hereby designates the current "Flood Insurance Rate Maps Franklin County, Kansas (Unincorporated Area)," prepared by FEMA, Federal Insurance Administration and dated May 3, 2011, and amendments thereto, as the official maps to be used in determining those areas of special flood hazard in the unincorporated territory of Franklin County, Kansas. Said maps are incorporated herein by reference as part of these Zoning Regulations.

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 resolution is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this resolution. The base flood is the flood that is estimated to have one (1) percent chance of being equaled or exceeded in any

one (1) year as delineated on the Federal Insurance Administrator's (FIS) and illustrative materials dated May 3, 2011 as amended and any future revisions thereto.

16-2.03 Enforcement: The Planning Director hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Article.

16-2.04 Rules for Interpretation of District Boundary: The boundary of the Floodplain Overlay District shall be determined by reviewing the "Flood Insurance Rate Maps". Where interpretation is needed as to the exact location of the boundaries of the district, the Planning Director shall make the necessary interpretation based upon data available. The Planning Director shall maintain the "Flood Insurance Rate Maps" and other engineering studies relating to flood data. In such cases where the Planning Director's interpretation is contested, the Board of Zoning Appeals shall resolve the dispute as provided by K.S.A. 12-759. The owner of the property of which the regulatory flood elevation is in question shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and to submit technical or supporting evidence.

16-2.05 Conflict: In the event of conflict between any floodplain zoning regulations in this Article and any other zoning regulations applicable to the same area, whether the conflict be with respect to the use of land or any other matter, the more stringent limitation or requirement as to flood hazards shall govern and prevail.

Section 16-3. Warning and Disclaimer of Liability

16-3.01 The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Article does not imply what land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of Franklin County, Kansas, or by any officer or employee thereof for any flood damages that result from reliance on these floodplain regulations or any administrative decision lawfully made there under.

Section 16-4. Definitions

16-4.01 Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the same meaning they have in common usage and to afford the 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).

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

Area of Special Flood Hazard: is the land in the floodplain within 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.

Basement: means any area of the building having its floor subgrade (below ground level) on all sides.

Board of County Commissioners: means the Franklin County, Kansas, Board of County Commissioners, also known as the *governing body*.

Building: See Structure.

Chief Engineer: means the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture.

Chief Executive Officer or Chief Elected Official: means the official of the community who is charged with the authority to implement and administer laws, resolutions 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.

County: means Franklin County, Kansas.

Development: means any man-made change to improved or unimproved real estate, including, but not limited to building 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, post, 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, structure 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; (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): see Flood Hazard Boundary Map.

Flood Elevation Determination: means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

Flood Hazard Boundary Map (FHBM): mean the official map of a community issued by the Administrator and adopted by the governing body showing the boundaries of flood areas having special flood hazards that have been designated as (numbered or unnumbered) zones and depicting the limits of (1) the floodplain; (2) the floodway; (3) stream channel and other pertinent information such as roads, railroads, geographic features, section numbers, township and range lines. May also be referred to as Flood Hazard Map, Flood Boundary Map and Floodway Map (FBFM).

Flood Hazard Map: see Flood Hazard Boundary Map.

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 regulations, subdivision regulations, building codes, health regulations, special purpose regulations (such as floodplain and grading regulations) and other applications of home rule. 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.

Floodwater Retarding Dam Breach Impact Area: Is the land located below a floodwater-retarding dam that is subject to flooding in the event of a failure or breach of the dam, which could result in the loss of life and property. The boundaries of the Floodwater Retarding Dam Breach Impact Area shall be determined by the Planning Director using the FIRM maps prepared by FEMA and the U.S.G.S. Map Elevations until the detailed Breach Impact Studies showing the exact location of such boundaries have been completed. In cases where the interpretation of the boundary by the Planning Director is contested, the Planning Commission will determine the boundaries.

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 (1) 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.

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 enclosures 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.

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 FHBM or after August 16, 1977, 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.

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

Permit: means a signed document from a designated 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.

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

Planning Director: means the Franklin County official assigned the responsibility of administering and enforcing the Franklin County Zoning Regulations, the Flood Management Regulations and Subdivision Regulations.

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: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

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

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

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

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

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

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

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

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

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 riverine areas.

Section 16-5. Floodplain Overlay District

16-5.01 The floodplain overlay district shall include only those areas of special flood hazard as designated by the Federal Insurance Administration's "Flood Hazard Boundary Map Franklin County, Kansas (Unincorporated Area)", dated August 16, 1977, and any revisions thereto. The floodplain overlay district created for this Article is F-P (Floodplain Overlay District).

Section 16-6. Development Permits Required

16-6.01 No person, firm, corporation or unit of government shall initiate any development or substantial improvement, or cause the same to be done, within an area of special flood hazard without first obtaining a separate floodplain development permit for each structure or other development, including the placement of manufactured homes or mobile homes. Said Development Permits shall be in addition to any required building permits, if applicable.

16-6.02 To obtain a Development Permit, the applicant shall first file an application therefore, in writing, on a form furnished for that purpose by the Planning Director. Every such application within the Special Flood Hazard Area shown as Zone A on the official Flood Insurance Rate Map, shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.
6. Be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of flood-proofed non-residential structures,

the elevation to which it has been flood-proofed. Documentation or certification of such elevations shall be maintained by the Planning Director.

7. Give such other information as reasonably may be required by the Planning Director.

16-6.03 The Planning Director shall review all Development Permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal, State or local law.

16-6.04 The Planning Director, in reviewing all Development Permit applications located within special flood hazard areas, shall obtain, review and reasonably utilize, any regulatory flood elevation data and floodway data available from Federal, State or other sources within the areas designated as Zone A on the Official Flood Insurance Rate Map and shall ensure that performance standards presented in Section 16-7 of this Article are met.

Section 16-7. Development Standards

16-7.01 Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot (1') above the base flood elevation. The elevation of the lowest floor or basement shall be certified by a licensed land surveyor or a licensed engineer. The Planning Director shall verify and maintain record of the certification.

16-7.02 Nonresidential Construction: New construction or substantial improvements of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to at least one foot (1') above the base flood elevation as certified by a licensed land surveyor or a licensed engineer or together with attendant utility and sanitary facilities, be flood-proofed one (1) foot above the base flood elevation and is watertight with walls substantially impermeable to the passage of water and with structure components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify the hydrostatic and hydrodynamic loading of this subsection has been satisfied. The Planning Director shall verify and maintain record of the certifications. When floodproofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

16-7.03 Manufactured and Mobile Homes: In addition to the above standard and requirements presented elsewhere in these Zoning Regulations, or any applicable state regulations, all temporary or permanent manufactured homes and mobile homes shall be anchored to resist flotation, collapse, or later; movement. Manufactured homes and mobile homes must be anchored in accordance with State law, these Zoning Regulations, and Federal Emergency Management Agency (FEMA) guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

1. Any manufactured home or mobile home that is placed or substantially improved within any unnumbered or numbered A zones, or AE zones as shown on the official Flood Insurance Rate Map, shall be elevated on a permanent foundation

such that the lowest floor is elevated at least one (1) foot above the base flood elevation as certified by a licensed land surveyor or a licensed engineer and shall be securely anchored to the permanent foundation as set forth in the Franklin County Zoning Regulations as well as the requirements of any other applicable state law or administrative regulations.

2. Any manufactured mobile home that is placed or substantially improved in an existing mobile home park or subdivision wherein a manufactured home or mobile home has sustained “substantial damage” as the result of a flood shall be elevated at least one (1) foot above the base flood elevation as certified by a licensed land surveyor or a licensed engineer and shall be securely anchored to the permanent foundation as set forth in the Franklin County Zoning Regulations as well as the requirements of any other applicable state law or administrative regulation.
3. Any recreational vehicle placed on sites within any unnumbered or numbered A zones, or AE zones, as shown on the official Flood Insurance Rate Map shall either (a) be placed on the site for a period not to exceed 90 consecutive days; (b) be fully licensed and ready for highway use; (c) meet the permit requirements regarding elevation and anchoring for manufactured or mobile homes of this Article. A recreational vehicle is considered ready for highway use if it is on its wheels or jacking system, is attached to the land only by quick disconnect type utilities and security devices and has no permanently attached additions.

16-7.04 General Standards: The following provisions shall be required for all new construction or substantial improvements in any area of special flood hazard.

1. Fully enclosed areas that are below the lowest floor and used solely for parking of vehicles, building access, or storage in an area other than a basement that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - A. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - B. The bottom of all openings shall be no higher than one foot (1’) 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.
2. The use of construction materials that are resistant to flood damage.
3. The use of construction methods and practices that will minimize flood damage.

4. New structures shall be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. Provide a “no-rise” certificate prepared by a registered professional engineer that the new structure or substantial improvement would not result in any increase in flood levels.
7. Franklin County shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency (FEMA). Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

16-7.05 Special Standards: In all areas of special flood hazard, once **floodway** data is obtained, the following provisions are required:

1. Until a floodway is designated, no new construction, substantial improvements or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
2. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated 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. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

Section 16-8. Standards for Subdivisions and other Development Proposals

16-8.01 The Planning Commission and Board of County Commissioners shall review all subdivision applications and other proposed new developments, including manufactured or mobile home parks and subdivisions, and shall make findings of fact and assure that:

1. 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.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured or mobile home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated Zone A on the official Flood Insurance Rate Map.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

Section 16-9. New Water and Sewer Systems

16-9.01 New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Any private water supply or private sewer system shall comply with the provisions set forth in the Franklin County Environmental Sanitation Code. A registered professional engineer shall certify that the standards of this section are satisfied. Such certification shall be provided to the Planning Director.

Section 16-10. Nonconforming Uses and Structures

16-10.01 All nonconforming uses and structures within the Floodplain Overlay District (F-P) shall be subject to the following requirements in addition to the provisions of Nonconforming Uses and Structures as set forth in these Zoning Regulations:

1. A structure or use of a structure or premise which was lawful before the passage of these floodplain regulations but which is not in conformity with the provisions of said regulations may be continued subject to the following conditions:
 - A. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.
 - B. If such use is discontinued for six (6) consecutive months or more, any future use of the building premises shall conform to the provisions established in this Article.
2. If any nonconforming use or structure is destroyed by any means, including flood it shall not be reconstructed if the cost is more than fifty percent (50%) of its assessed valuation before the damage occurred unless it is reconstructed in conformity with the provisions established in this Article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the costs any alteration for a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 16-11. Changes and Amendments

16-11.01 These floodplain regulations shall take precedence over conflicting regulations or parts of regulations. The Board of County Commissioners may, from time to time, amend this Article to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that such amendments shall be in compliance with the requirements of these Zoning Regulations and with the requirements of K.S.A. 12-766. These floodplain regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations. (CFR) 60.3(b).

Section 16-12. Variances

16-12.01 Variances and Variance Procedures: The Board of Zoning Appeals shall hear and decide all variances from the requirements of this Article and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Planning Director in the enforcement or administration of this Article. The procedure for filing an application for a variance shall be in compliance with K.S.A. 12-759(d).

16-12.02 Variances for Historic Places: Variances may be issued for the reconstruction rehabilitation or restoration of structures listed on the National Register of Historic Places of the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section, provided the proposed activity will not preclude the structure's continued historic designation.

16-12.03 Criteria for Consideration of Variances: The Board of Zoning Appeals in passing upon variance application in the Floodplain Overlay District (F-P), shall consider all technical evaluations, all relevant factors and standards specified in this Article, and the following:

1. The danger that materials may be swept onto other land to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a water front location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the adopted Franklin County Comprehensive Plan.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at this site.
11. The 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, and streets, roads and bridges.

16-12.04 Conditions for Granting a Variance: The Board of Zoning Appeals may grant a variance from the requirements of this article subject to the following:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon: a) a showing of good and sufficient cause; and b) a determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations, or ordinances.
3. Variances shall not be issued within any designated floodway if **any** increase in flood levels would result from a base flood.
4. The Board of Zoning Appeals shall notify the Applicant in writing over the signature of a community official that:
 - a) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - b) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this ordinance.

5. Upon consideration of the factors listed above and the purposes of this Article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

Section 16-13. Penalties for Violation

16-13.01 Any person, company, firm, corporation, institution, municipality or agency of the State who violates any provision of any regulation set forth in this Article (including violations of conditions and safeguards required for variances) shall constitute a misdemeanor and shall be subject to the penalties and remedies as provided by K.S.A. 12-761.

Section 16-14. Floodwater Retarding Dam Breach Areas (BA)

16-14.01 Special regulations for Floodwater Retarding Dam Breach Areas. In addition to the limitations and restrictions set forth in Floodplain Management Regulations,

only uses having a low flood damage potential and not obstructing a flood flow are permitted as follows:

- a. Agricultural uses excluding structures.
- b. Residential uses such as lawns, gardens, parking, play and yard areas excluding any structures.
- c. Nonresidential uses such as loading areas, parking and landing strips.
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks and wildlife and nature preserves.

Section 16-15. Areas of Shallow Flooding (AO and AH Zones)

16-15.01

Located within the areas of special flood hazard as described in this Article are areas designated 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 basements, 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).
- b. All new construction and substantial improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basements, 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) or together with attendant utilities and sanitary facilities be completely floodproofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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 this Article.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.