

ORDINANCE NO. B-379

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**1.1 STATUTORY AUTHORIZATION**

The Legislature of the State of Kansas has in K.S.A. 12-741 et. seq., in particular K.S.A. 12-766, delegated the responsibility to local governmental units to adopt regulations designed to protect the health, safety and general welfare. Therefore, the governing body of the City of Victoria, Kansas ordains as follows.

1.2 FINDINGS OF FACT**1.21 Flood Losses Resulting from Periodic Inundation**

The flood hazard areas of Victoria, 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.

1.22 General Causes of the Flood Losses

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

1.3 STATEMENT OF PURPOSE

It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by applying the provisions of this Ordinance to:

- 1.31 Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- 1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- 1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- 1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

Section 2 - The City Superintendent hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and all other Ordinances of the City of Victoria now in force or hereafter adopted, related to zoning, subdivision or building codes.

Section 3 - The City Superintendent shall be appointed to these additional responsibilities by resolution of the Governing Body and his appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the City Superintendent, the Governing Body of the City shall designate an acting enforcement official.

Section 4 - The Governing Body of the City of Victoria hereby designates the current Flood Insurance Rate Map (FIRM), for the City of Victoria, adjacent areas on Ellis County FIRM panel No. 225B, and amendments, as the official map to be used in determining those areas of special flood hazard.

Section 5 - Permits Required: No person, firm or corporation shall erect, construct, enlarge or improve any building or structure or make other developments, as defined in the definitions section of this ordinance, in the City, or cause the same to be done without first obtaining a separate development permit for each building or structure.

- A. Within Zone(s) A on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.
- B. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
 - (1) Identify and describe the work to be covered by the floodplain development 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 authorized agent who may be required to submit evidence to indicate such authority.
- (6) Within designated floodplain areas, be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of floodproofed nonresidential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the City Superintendent.
- (7) Give such other information as reasonably may be required by the City Superintendent. (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of nonresidential floodproofing when a minus one foot, (-1') penalty is assessed at the time of rating the structure for the policy premium.)

SECTION 6 - The City Superintendent 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 or State Law.

SECTION 7 - The City Superintendent, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 14 of this Ordinance) will:

- A. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official map that the following performance standards be met:
 - (1) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
 - (2) Nonresidential Construction - New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local enforcement official.

- (3) Require for all new construction and substantial improvements - That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- B. Require the use of construction materials that are resistant to flood damage.
- C. Require the use of construction methods and practices that will minimize flood damage.
- D. Require that new structures 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.
- E. New structures 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.
- F. Assure that all manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

- (1) Over-the-top ties be provided at each of the four corners

of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.

- (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.
 - (3) All components of the anchoring system be capable of carrying a force of 4800 pounds.
 - (4) Any additions to manufactured homes be similarly anchored.
- G. Assure that all manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
- (1) Outside of a manufactured home park or subdivision,
 - (2) In a new manufactured home park or subdivision,
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) 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 or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.F.
- H. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Section 7.G. be elevated so that either:
- (1) The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.F.

- I. Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and 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.

SECTION 8 - The Governing Body of the City shall review all subdivision applications and other proposed new developments, including manufactured home parks or subdivisions, and shall make findings of fact and assure that:

- A. All such proposed developments are consistent with the need to minimize flood damage.
- B. Subdivision proposals and other proposed new developments (including proposals for manufactured 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.
- C. Adequate drainage is provided to as to reduce exposure to flood hazards.
- D. All public utilities and facilities are located so as to minimize or eliminate flood damage.

SECTION 9 - New Water and Sewer, etc. - New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

SECTION 10 - The Governing Body of the City will insure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the City 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.

SECTION 11 - VARIANCE PROCEDURES

- 11.1 The Board of Zoning Appeals as established by the City of Victoria shall hear and decide appeals and requests

for variances from the requirements of this Ordinance.

- 11.2 The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this Ordinance.
- 11.3 Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal such decision to the District Court having jurisdiction as provided in K.S.A. 12-714 and 12-715.
- 11.4 In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Ordinance, and:
 - 11.41 the danger that materials may be swept onto other lands to the injury of others;
 - 11.42 the danger to life and property due to flooding or erosion damage;
 - 11.43 the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 11.44 the importance of the services provided by the proposed facility to the community;
 - 11.45 the necessity to the facility of a waterfront location, where applicable;
 - 11.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 11.47 the compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;
 - 11.48 the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - 11.491 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 the site; and,
 - 11.492 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 and bridges.

11.5 Conditions for Variances

- 11.51 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 (11.52-11.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 11.52 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- 11.53 Variances shall not be issued within any designated floodway if any increases in flood levels during the base flood discharge would result.
- 11.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 11.55 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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/resolutions.
- 11.56 Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 12 NONCONFORMING USE

- 12.1 A structure or the use of a structure or premises which

was lawful before the passage or amendment of the Ordinance, but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- 12.11 If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of six (6) months.
- 12.12 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- 12.2 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the new market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 13 ABROGATION AND GREATER RESTRICTIONS

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

SECTION 14 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and 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.

SECTION 15 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 height 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 floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Ordinance shall not create liability on the part of the City of Victoria or any officer or employee thereof for any flood damages that may result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION 16 SEVERABILITY

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

SECTION 17 APPEAL

Where a request for a permit to develop or a variance is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Appeals.

SECTION 18.0 PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000, 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 the City of Victoria or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 19 - This Ordinance shall take precedence over conflicting Ordinances or parts of Ordinances.

The Governing Body of the City of Victoria may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.

SECTION 20 - DEFINITIONS - Unless specifically defined below, words of phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

"Base Flood" - The flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" - Any area of the building having its floor subgrade (below ground level) on all sides.

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

"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.

"Flood" - A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

"Historic Structure" - Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary 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 non-elevation design requirements of this Ordinance.

"Manufactured Home" - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

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

"New Construction" - For the purpose 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 a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"Recreational Vehicle" - A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be selfpropelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory Flood Elevation" - The water surface elevation of the 100-year flood.

"Special Flood Hazard Area" - The land within a community, subject to a one percent or greater change of flooding in any given year. This land is identified as Zone A on the official map.

"Start of Construction" - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was 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 slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of

excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

"Structure" - A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

"Substantial Damage" - 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.

"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 the "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 which 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" - A grant of relief by a community from the terms of a floodplain management regulation.

"Violation" - 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 in these regulations is presumed to be in violation until such time as that documentation is provided.

Section 21. Chapter XVI, Article 3 of the Code of the City of Victoria is hereby amended.

ADOPTED AND PASSED by the Governing Body of the City of Victoria,
Kansas, this 8 day of January, 1996.



Allen P. Dreiling
Allen P. Dreiling, Mayor

Alice K. Sander
Alice K. Sander, City Clerk