

## RESOLUTION 2018-18

A RESOLUTION DETERMINING FLOODPLAIN MANAGEMENT IN BARTON COUNTY, KANSAS, AND RESCINDING CERTAIN BARTON COUNTY ZONING REGULATIONS AND CERTAIN BARTON COUNTY RESOLUTIONS DEALING WITH FLOODPLAIN MANAGEMENT

**WHEREAS**, the National Flood Insurance Program (NFIP) was created by the United States Congress and enables property owners in participating communities to purchase insurance protection from the government against losses from flooding; and

**WHEREAS**, this insurance is designed to provide an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods; and

**WHEREAS**, participation is based on an agreement between local communities and the federal government which states that if a community will adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas (SFHA), the federal government will make flood insurance available within the community as a financial protection against flood losses; and

**WHEREAS**, Barton County is a member community and has enforced floodplain regulations for some time; and

**WHEREAS**, the floodplain management regulations, as required by KSA 12-766, have been approved in draft by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on October 11, 2018.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners of Barton County, Kansas, that the Floodplain Management Resolution 60.3(d) Regulatory Floodway Identified by the Flood Insurance Rate Map for Barton County, Kansas, and Incorporated Areas dated February 15, 2019, and the Flood Insurance Study for Barton County, Kansas and Incorporated Areas dated February 15, 2019, as approved by the Kansas Department of Agriculture, Division of Water Resources, on the 11<sup>th</sup> day of October, 2018, and herein incorporated by reference, are herein adopted and shall become effective the 15<sup>th</sup> day of February, 2019; and

**FURTHER**, that the Barton County Zoning Regulations, Version II, adopted June 5, 2017 under Resolution 2017-10, shall be revised as noted, current contents of Article VII, Floodplain Regulations, shall be omitted in its entirety and that the Floodplain Management Resolution 60.3(d) Regulatory Floodway Identified by the Flood Insurance Rate Map for Barton County, Kansas and Incorporated Areas dated February 15, 2019 and the Flood Insurance Study for Barton County, Kansas and Incorporated Areas dated February 15, 2019, as approved by the Kansas Department of Agriculture, Division of Water Resources, on the 11<sup>th</sup> day of October, 2018, and herein incorporated by reference, shall be inserted with an effective date of February 15, 2019; and

**FURTHER**, Resolution 2009-21, same, adopted August 3, 2009, is hereby rescinded and Resolution 2013-17, A Resolution Determining Floodplain Management in Barton County, Kansas, and Amending 2009-21, Same, adopted July 29, 2013, is hereby rescinded; and

**FURTHER**, that any Barton County Resolution or Regulation, adopted prior to this time, identified as being in conflict with the provisions of the regulations as noted herein, shall be considered null and void and that the regulations adopted this date shall prevail.

**ADOPTED** this 29<sup>th</sup> day of October, 2018.

**BOARD OF COUNTY COMMISSIONERS**

  
Jennifer Schartz, Chairman


  
Don Davis, Commissioner

  
Homer Kruckenberg, Commissioner

  
Kenny Schremmer, Commissioner

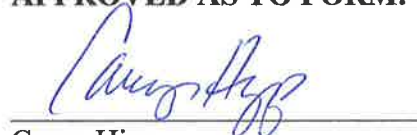
  
Alicia Straub, Commissioner

**ATTEST:**

  
Donna Zimmerman,  
County Clerk



**APPROVED AS TO FORM:**

  
Carey Hipp,  
County Counselor

FLOODPLAIN MANAGEMENT RESOLUTION  
60.3 (d) Regulatory Floodway Identified

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RESOLUTION No. 2018-18

Division of Water Resources

ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

SECTION A. STATUTORY AUTHORIZATION

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

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on October 11, 2018.

2. *Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq.*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of County Commissioners, Barton County, Kansas, ordains as follows:

SECTION B. FINDINGS OF FACT

1. *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas Barton 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 flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. *Methods Used To Analyze Flood Hazards*

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

- a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this 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 a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated Feb. 15, 2019 as amended, and any future revisions thereto.

- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

#### SECTION C. STATEMENT OF PURPOSE

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

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

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#### ARTICLE 2 GENERAL PROVISIONS

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#### SECTION A. LANDS TO WHICH RESOLUTION APPLIES

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This resolution shall apply to all lands within the jurisdiction of Barton County, KS, identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated Feb. 15, 2019 of the Flood Insurance Rate Map (FIRM) as amended and any future revisions thereto. In all areas covered by this resolution, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Board of County Commissioners, Barton County, KS, or its duly designated representative under such safeguards and restrictions as Board of County Commissioners, Barton County, KS, or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

## SECTION B. COMPLIANCE

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

## SECTION C. ABROGATION AND GREATER RESTRICTIONS

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

## SECTION D. INTERPRETATION

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

## SECTION E. WARNING AND DISCLAIMER OF LIABILITY

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

## SECTION F. SEVERABILITY

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

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## ARTICLE 3 ADMINISTRATION

### SECTION A. FLOODPLAIN DEVELOPMENT PERMIT

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

### SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Barton County Engineer is hereby appointed to administer and implement the provisions of this resolution as the Floodplain Administrator.

### SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

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

#### SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file a Barton County Floodplain Development Permit Application in writing on the form furnished for that purpose. A copy of the form and instructions is attached as Exhibit 1. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the floodplain administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

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#### ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

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#### SECTION A. GENERAL STANDARDS

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1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this resolution. Barton County shall not provide Base Flood Elevation (BFE) information. BFE information shall be obtained by the applicant through sources such as a State or Federal agency or an engineering firm who can provide information that will meet FEMA requirements. Barton County shall then review and reasonably utilize the BFE or Floodway data.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not

increase the water surface elevation of the base flood more than one foot at any point within the community.

4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
  - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Construction with materials resistant to flood damage;
  - c. Utilization of methods and practices that minimize flood damages;
  - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and
  - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - (1) All such proposals are consistent with the need to minimize flood damage;
    - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, include within such proposals base flood elevation data.

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5. *Storage, Material, and Equipment*

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

6. *Nonconforming Use*

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



- a. If such structure, use, or utility service is discontinued for 6 consecutive months, any future improvements to the building shall conform to this resolution.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

7. *Agricultural Structures*

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

8. *Accessory Structures*

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this resolution; and a floodplain development permit has been issued.

9. *Critical Facilities*

- a. All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the .2 percent annual chance flood event, also referred to as the 500-year flood level or together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 floodplain administrator as set forth in Article 3, Section C (7) (8) (9).
- b. No critical facilities shall be constructed in any designated floodway.

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## 10. Certifications and Other Permits

As required by Kansas Statutes, before approval of a Barton County Floodplain Development Permit the Floodplain Administrator will require a FEMA Elevation Certificate for New Construction and Substantial Improvements. If located in a Floodway, a No-Rise Certification must be provided prior to the issuance of a permit that states the proposed development will result in no increase in the Base Flood Elevation. A review of all developments in a regulated floodplain by the Kansas Division of Water Resources is also required, which may result in the need to obtain a DWR permit before approval of a Barton County Floodplain Development Permit. In some cases, a United States Army Corps of Engineers Section 404 Permit may also be required. Other certifications may be required as per the regulations.

### SECTION B. SPECIFIC STANDARDS

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

- a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. Mechanical and HVAC equipment is to be elevated or protected to the same level as the lowest floor. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes used for these purposes, 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 dry floodproofed to a minimum of one (1) foot above the base flood elevation. Mechanical and HVAC equipment is to be elevated or protected to the same level as the lowest floor. A registered Professional Engineer or Architect shall certify 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 Article 3, Section C (7)(8)(9).

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

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- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
- (2) The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

#### SECTION C. MANUFACTURED HOMES

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
  - a. Outside of a manufactured home park or subdivision; or
  - b. In a new manufactured home park or subdivision; or
  - c. In an expansion to an existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Mechanical and HVAC equipment is to be elevated or protected to the same level as the lowest floor. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C (2) of this resolution, be elevated so that:
  - a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level. Mechanical and HVAC equipment is to be elevated or protected to the same level as the lowest floor. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
  - b. The manufactured home chassis is supported by reinforced pier or other foundation elements of at least equal strength and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

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## SECTION D. AREAS OF SHALLOW FLOODING (AO and AH zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO 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:

### 1. *AO Zones*

- a. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified). Mechanical and HVAC equipment is to be elevated or protected to the same level as the lowest floor. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
- b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes used for these purposes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the 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. Mechanical and HVAC equipment is to be elevated or protected to the same level as the lowest floor. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures
- d. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

### 2. *AH Zones*

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

## SECTION E. FLOODWAY

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

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. If Article 4, Section E (2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
4. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this resolution. Barton County shall not provide Base Flood Elevation (BFE) information. BFE information shall be obtained by the applicant through authorized FEMA sources. Barton County shall then review and reasonably utilize the BFE or Floodway data.

#### SECTION F. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:

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

\*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.

#### ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

##### SECTION A. ESTABLISHMENT OF APPEAL BOARD

The Board of Zoning Appeals as established by the Board of County Commissioners, Barton County, KS, shall hear and decide appeals and requests for variances from the floodplain management requirements of this resolution.

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## SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this resolution.

## SECTION C. 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.

## SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this resolution, 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.

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## SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

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

## SECTION F. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this resolution.

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 variance issued for agricultural structures that are constructed at-grade and wet-floodproofed:

1. All agricultural structures considered for a variance from the floodplain management regulations of this resolution shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.

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2. Use of the varied structures must be limited to agricultural purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this resolution.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4, Section A (4)(a) of this resolution. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located 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 Article 4, Section A (4)(d) of this resolution.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this resolution.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E(2) of this resolution. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.
11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

## SECTION G. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES

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Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this resolution.

In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed:

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this resolution.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this resolution. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this resolution.
5. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this resolution.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this resolution. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.

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10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

#### ARTICLE 6 PENALTIES FOR VIOLATION

Violation of the provisions of this resolution 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 resolution or fails to comply with any of its requirements shall, upon conviction thereof, be subject to the penalties allowable by law for a Class B misdemeanor, 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 Barton County or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### ARTICLE 7 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this resolution 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 Barton 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 resolution are in compliance with the NFIP regulations.

#### ARTICLE 8 DEFINITIONS

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

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

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

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

"Administrator" means the Federal Insurance Administrator.

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

"Agricultural Commodities" means agricultural products and livestock.

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

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

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

**"Area of Shallow Flooding"** means a designated AO or AH zone on 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.

**"Base Flood Elevation (BFE)"** "The computed elevation to which floodwater is anticipated to rise during the base flood.

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

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

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

**"Chief Executive Officer" or "Chief Elected Official"** means the official of the 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.

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

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

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

**"Existing Construction"** means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for

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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)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards 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)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

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

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

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**"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 such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

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

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

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

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

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

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

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

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"**Lowest Floor**" means the lowest floor of the lowest enclosed area, <sup>Division of Water Resources</sup> 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 resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured

home on a permanent foundation, or a travel trailer, without wheels 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 resolution 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.

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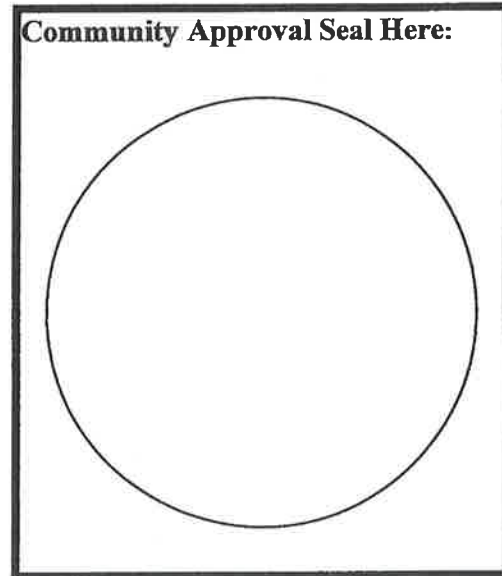
**Division of Water Resources**



**ARTICLE 9 CERTIFICATE OF ADOPTION**

This Floodplain Management Resolution for the community of Barton County, Kansas, was PASSED AND ADOPTED by the Board of County Commissioners, Barton County, Kansas,

This 29 day of October, 2018.



**APPROVED:**

Jennifer Schartz 10/29/18  
Signature of Chief Executive Officer/Chief Elected Official Date

Commission Chair Jennifer Schartz  
Chief Executive Officer/Chief Elected Official Name (Typed/printed) Title

**ATTEST:**

Donna Zimmerman 10-29-2018  
Signature of Recording Clerk Date

County Clerk Donna Zimmerman  
Recording Clerk Name (Typed/printed) Title



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**BARTON COUNTY FLOODPLAIN DEVELOPMENT PERMIT APPLICATION**

Community Name: Barton County Date: \_\_\_\_\_ Application #: \_\_\_\_\_

**TO THE ADMINISTRATOR:** The undersigned hereby makes application for a permit to develop in a floodplain. The work to be performed, including flood protection works, is as described below and in attachments hereto. The undersigned agrees that all such work shall be done in accordance with the requirements of the Floodplain Management Resolution and applicable to the State of Kansas requirements as contained in K.S.A.12-766, and K.A.R. 5-44-1 through 5-44-6.

Owner or Developer \_\_\_\_\_ Builder or Contractor (if applicable) \_\_\_\_\_

Street Address \_\_\_\_\_ Street Address \_\_\_\_\_

City, State, Zip code \_\_\_\_\_ City, State, Zip code \_\_\_\_\_

Phone \_\_\_\_\_ Phone \_\_\_\_\_

**SITE DATA**

1. Location: \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

Street Address: \_\_\_\_\_

2. Type of Development: New Construction\*\* \_\_\_\_\_ Substantial Improvement\*\* \_\_\_\_\_ Minimum Improvement \_\_\_\_\_  
Filling \_\_\_\_\_ Grading \_\_\_\_\_ Excavation \_\_\_\_\_ Other \_\_\_\_\_

\*\*Notice: FEMA Elevation Certificate **MUST** be attached to permit.

3. Description of Development: \_\_\_\_\_

4. Structure: New Structure sq ft. \_\_\_\_\_ Existing Structure sq ft. \_\_\_\_\_ + Improvements sq ft \_\_\_\_\_ = Total sq ft \_\_\_\_\_

Principal use \_\_\_\_\_ Accessory uses (storage, parking, etc.) \_\_\_\_\_

5. Value of Improvement (fair market): \$ \_\_\_\_\_ Pre-Improvement/Assessed value of structure \$ \_\_\_\_\_

6. Development Located in a Designated: FLOODWAY? Yes \_\_\_\_\_ No \_\_\_\_\_ FLOODWAY FRINGE? Yes \_\_\_\_\_ No \_\_\_\_\_

**IF LOCATED IN FLOODWAY, NO-RISE CERTIFICATION MUST BE PROVIDED PRIOR TO THE ISSUANCE OF A PERMIT TO DEVELOP THAT STATES THE PROPOSED DEVELOPMENT WILL RESULT IN NO INCREASE IN THE BASE FLOOD (100-YEAR) ELEVATION.**

7. FEMA Flood Map Panel Number: \_\_\_\_\_ Effective Map Date: \_\_\_\_\_

ELEVATIONS (indicate datum used): NGVD \_\_\_\_\_ NAVD \_\_\_\_\_

8. Elevation of 100-Year Flood / Base Flood Elevation (BFE) at development site: \_\_\_\_\_ Feet

9. Elevation of development site: \_\_\_\_\_ Feet

10. Elevation of lowest floor of residential development (minimum one foot above BFE): \_\_\_\_\_ Feet

11. Elevation of floodproofing for non-residential development (minimum one foot above BFE): \_\_\_\_\_ Feet

12. Other floodplain elevation information (identify and describe source): \_\_\_\_\_ (attach to permit)

13. Other Permits required? a. United States Army Corps of Engineers Section 404 Permit: Yes \_\_\_\_\_ No \_\_\_\_\_

(attach copies to permit) b. Kansas Department of Agriculture Division of Water Resources: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Other Permits \_\_\_\_\_

14. This permit is in compliance with all provisions of Floodplain Management Resolution # \_\_\_\_\_

**NOTICE: Read Carefully.** This permit is issued with the condition that the lowest floor (including basement) of any new or substantially-improved (over 50% current market value) residential structure will be elevated at least one (1) foot above the base flood elevation. If the proposed development is a non-residential structure, this permit is issued with the condition that the lowest floor (including basement) of any new or substantially-improved non-residential structure will be elevated or floodproofed at least one (1) foot above the Base Flood Elevation. This permit is issued with the condition that the developer/owner will provide a FEMA Elevation Certificate completed by a registered engineer, architect, or land surveyor of the "as-built" lowest floor elevation of any new or substantially-improved structure covered by the permit.

Permit Decision:  Approved  Denied (attach explanation) this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Print Name and Title of Owner or Developer \_\_\_\_\_ Print Name and Title of Authorizing Community Official \_\_\_\_\_

**Topoka Field Office**

Signature of Owner or Developer \_\_\_\_\_ Date \_\_\_\_\_ Signature of Authorizing Community Official \_\_\_\_\_ Date \_\_\_\_\_

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## INSTRUCTIONS

**Section A:** Complete the name and contact information of applicant. It is preferred that this be the information of the property owner. Circle owner or builder depending on applicant.

**Section B:** Complete information in this section describing location of the development. Space is provided for other locator such as parcel identification number or name of subdivision. For a long legal description, the information could be attached separately and noted here. It is also suggested to attach a FIRMette of the location.

**Section C:** \*For new construction and substantial improvements an elevation certificate is required. An elevation certificate based on construction drawings can be used at the start of construction. A finished construction elevation certificate is required when the project is complete. Minor projects may not require an elevation certificate. For example: a new culvert.

**Section D:** Describe the development. Is this a substantial improvement? Substantial improvement may require that the entire structure be brought up to current standards and that the lowest floor (including basement) be elevated one (1) foot above the base flood elevation.

**Section E:** Flood map information. For a project in a designated floodway a no-rise certificate is required. In an area of detailed study when a floodway has not been designated it must be determined that development will not cause more than one (1) foot of rise.

**Section F:** Specify if National Geodetic Vertical Datum of 1929 or North American Vertical Datum of 1988 was used for the elevation information in this section. \*\*Lowest floor of a residential structure (including basement) and level of floodproofing for a non-residential structure must be one (1) foot above the base flood elevation. In a house that has a basement the lowest floor is the floor of the basement. This information will be on an elevation certificate. There should be an elevation certificate for every post-FIRM structure. If other sources of elevation information were used please specify where that information came from. For certain types of projects the elevation information may not apply. For example: excavation of a borrow pit. In those situations use N/A in the blanks for elevation information. Elevation certificates are not required for projects. Projects that do not require elevation certificates are excavation, culverts and parking lots.

**Section G:** The Kansas Department of Agriculture, Division of Water Resources requires permits for fill placed in floodplains. Permits are also required for levees, stream obstructions, and dams. Some minor projects are exempt based on the amount of fill, upstream drainage, or the size of the dam. US Army Corps of Engineers may require permits involving wetlands or projects that could alter the course of a navigable water way.

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