

Chapter 405

FLOOD HAZARD PREVENTION

ARTICLE I

Findings of Fact, Purpose and Objectives

Section 405.010. Findings of Fact — Statutory Authorization.

- A. The legislature of the State of Missouri has in Chapter 89 (Section 89.020) of the State Statutes delegated the responsibility to local government units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of Aldermen of the City of Wellington ordains flood regulations as set out herein.
- B. The special flood hazard areas of the City of Wellington, Missouri, are subject to periodic inundation which results in loss of life, 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.
- C. *General Causes Of The Flood Losses.* These flood losses are caused by the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and by the occupancy in flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- D. *Methods Used To Analyze Flood Hazards.* The Flood Insurance Study (FIS) that is the basis of this Chapter uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.
 - 1. 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 Chapter is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this Chapter. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated _____, as amended, and any future revisions thereto.
 - 2. Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

3. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
5. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

Section 405.020. Statement of Purpose.

- A. It is the purpose of this Chapter to promote the public health, safety and general welfare; to minimize those losses described in Article I, Section 405.010(B); 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) by applying the provisions of this Chapter 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.

ARTICLE II
Definitions

Section 405.030. Definitions.

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

100-YEAR FLOOD — See "*Base Flood*".

ACCESSORY STRUCTURE — Means the same as "*appurtenant structure*".

ACTUARIAL OR RISK PREMIUM RATES — Those rates established by the Administrator pursuant to individual community studies and investigation which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and accepted actuarial principles. "*Risk premium rates*" include provisions for operating costs and allowances.

ADMINISTRATOR — The Federal Insurance Administrator.

AGENCY — The Federal Emergency Management Agency (FEMA).

APPEAL — A request for a review of the Code Enforcement Officer's interpretation of any provision of this Chapter or a request for a variance.

APPURTENANT STRUCTURE — 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 — A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD — The flood having a one percent (1%) 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.

BUILDING — See "*Structure*".

CHIEF EXECUTIVE OFFICER OR CHIEF ELECTED OFFICIAL — The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

COMMUNITY — 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 — Any manmade change to improved or unimproved real estate, including, but not limited to buildings or structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING — 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 — A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

EXISTING CONSTRUCTION (FOR THE PURPOSES OF DETERMINING RATES) — Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "*Existing construction*" may also be referred to as "*existing structures*".

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — 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 — 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 — 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.

FLOOD ELEVATION DETERMINATION — A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of flood hazards.

FLOOD FRINGE — The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An Official Map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A Zones.

FLOOD INSURANCE RATE MAP (FIRM) — An Official Map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN MANAGEMENT — 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 — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of Police power. The term describes such State or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

FLOODPLAIN OR FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see "*Flooding*").

FLOODPROOFING — Any combination of structural and non-structural 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 — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FLOODWAY ENCROACHMENT LINES — The lines marking the limits of floodways on Federal, State and local floodplain maps.

FREEBOARD — A factor of safety usually expressed in feet above a flood level for purposes of flood plain 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 wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE — 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 — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

1. 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;
2. 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;
3. 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
4. Individually listed on a Local Inventory of Historic Places in communities with Historic Preservation Programs that have been certified either:
 - a. By an approved State program as determined by the Secretary of the Interior;
or
 - b. Directly by the Secretary of the Interior in States without approved programs.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Chapter.

MANUFACTURED HOME — A structure, transportable in one (1) 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.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MARKET VALUE OR FAIR MARKET VALUE — An estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL — 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 — 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 a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed, including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed on or after the effective date of the floodplain management regulations adopted by the community.

NFIP — The National Flood Insurance Program (NFIP).

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

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

PRINCIPALLY ABOVE GROUND — At least fifty-one percent (51%) of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REMEDY A VIOLATION — 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 non-compliance.

RISK PREMIUM RATES — 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 — An area having special flood hazards and shown on an FHBM, FIRM or FBFM as Zones (unnumbered or numbered) A and AE.

START OF CONSTRUCTION — Includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first (1st) 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; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms; the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual "*start of construction*" means the first (1st) 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 — That agency of the State government, or other office designated by the Governor of the State or by State Statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that State.

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

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) 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 fifty percent (50%) 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 an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

VARIANCE — Grant of relief to a person from the requirements of this Chapter which permits construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship. Flood insurance requirements remain in place of any varied use or structure and cannot be varied by the community.

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 by this Chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION — 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.

ARTICLE III General Provisions

Section 405.040. Lands To Which This Chapter Applies.

This Chapter shall apply to all areas within the jurisdiction of the City of Wellington, Missouri, identified as numbered and unnumbered A Zones and AE Zones, on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) dated _____, as amended, and any future revisions thereto. In all areas covered by this Chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Board of Aldermen or its duly designated representative under such safeguards and restrictions as the Board of Aldermen 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 V.

Section 405.050. Penalties For Non-Compliance.

- A. No development located in the special flood hazard areas of this community shall hereafter be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Chapter and other applicable regulations.
- B. Violation of the provisions of this Chapter 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 an ordinance violation. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- C. Nothing herein contained shall prevent the City of Wellington or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 405.060. Abrogation and Greater Restrictions.

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 405.070. Interpretation.

- A. In the interpretation and application of this Chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the Governing Body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

Section 405.080. Warning and Disclaimer of Liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods may occur on rare occasions or the flood heights may be increased by manmade or natural causes such as ice jams and bridge openings restricted by debris. This Chapter 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 damages. This Chapter shall not create liability on the part of the City of Wellington or by any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

Section 405.090. Severability.

If any Section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid in a court of appropriate jurisdiction, the remainder of this Chapter shall not be affected thereby.

ARTICLE IV
Administration

Section 405.100. Establishment of A Development Permit.

- A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Article III, Section 405.040. No person, firm, or corporation or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development as defined in Article II. Application for a development permit shall be made on forms furnished by the Code Enforcement Officer and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
 2. Elevation in relation to mean sea level to which any non-residential structure is to be floodproofed.
 3. Certification from a registered professional engineer or architect that the non-residential floodproofed structure will meet the floodproofing criteria in Article V, Section 405.170.
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 405.110. Application For Floodplain Development Permit.

- A. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:
1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
 2. Identify and describe the work to be covered by the floodplain development permit;
 3. Indicate the use or occupancy for which the proposed work is intended;
 4. Indicate the assessed 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 Codes Enforcement Officer;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

Section 405.120. Designation of The Local Administrator.

The Code Enforcement Officer is hereby appointed to administer and implement the provisions of this Chapter, by granting or denying development permit applications in accordance with its provisions.

Section 405.130. Duties and Responsibilities of The Code Enforcement Officer.

- A. Duties of the Code Enforcement Officer shall include, but not be limited to:
1. Review all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this Chapter have been satisfied.
 2. Review 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. When base flood elevation data has not been provided in accordance with Article III, Section 405.040, then the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation or floodway data available from a Federal, State or other source, in order to administer the provisions of Article V.
 4. Verify, record and maintain records of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 5. Verify, record and maintain records of the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been floodproofed.
 6. When floodproofing techniques are utilized for a particular non-residential structure the Code Enforcement Officer shall obtain certification from a registered professional engineer or architect.
 7. Notify adjacent communities and the State Emergency Management Agency (SEMA) prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
 8. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

9. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field condition) the Codes Enforcement Officer shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
10. Issue floodplain development permits for all approved applications.
11. 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.

Section 405.140. Variance Procedures.

- A. The Board of Adjustment as established by the City of Wellington shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirements, decision, or determination made by the Code Enforcement Officer in the enforcement or administration of this Chapter.
- C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court of Lafayette County, Missouri, as provided in Section 89.110, RSMo.
- D. In passing upon such applications, the Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other Sections of this Chapter, and the following criteria:
 1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of a proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. *Conditions For Variances.*

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided in Subsections (2) through (6) below, have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, or 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 a determination that the proposed activity will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that:
 - 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 twenty-five dollars (\$25.00) or one hundred dollars (\$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 Chapter.

ARTICLE V
Provisions For Flood Hazard Reduction

Section 405.150. General Standards.

- A. 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 and AE Zones, unless the conditions of this Section are satisfied.
- B. 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 Chapter. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
- C. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A Zone or AE Zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- D. In all areas of special flood hazards (Zones A, AE, A1-30) the following provisions are required in all new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes and other development:
 - 1. All new construction including manufactured homes and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - 2. Shall be constructed with materials resistant to flood damage.
 - 3. Shall be constructed by methods and practices that minimize flood damage.
 - 4. Shall be constructed with electrical, heating, ventilation, plumbing, and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters.
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
8. *Storage, material and equipment.* The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
9. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.
10. Until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevations of the 100-year flood more than one (1) foot on the average cross-section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference; Article III, Section 405.040 of this Chapter.

Section 405.160. Standards For Subdivision Proposals.

- A. 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 shall be 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 provided to reduce exposure to flood hazards.
 4. All proposals for development (including proposals for manufactured home parks and subdivisions), of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

Section 405.170. Specific Standards.

- A. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article III, Section 405.040 the following provisions are required:
 1. *Residential construction.* New construction or substantial improvement of any residential structure including manufactured homes, shall have the lowest

floor, including basement, elevated to one (1) foot above the base flood elevation.

2. *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or other non-residential structure including manufactured homes, shall either have the lowest floor, including basement, elevated to or one (1) foot above 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 official as set forth in Article IV, Section 405.130.
3. *Requirements for all new construction and substantial improvements.* 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. 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
 - b. 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 floodwaters.
4. In all areas of special flood hazard, once floodway data is obtained, as set forth in Section 405.040, the following provisions are required:
 - a. The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one (1) foot at any point; and
 - b. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
5. *Manufactured homes.*

- a. All manufactured homes to be placed within all unnumbered and numbered A Zones and AE 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. Manufactured homes must be anchored in accordance with State and 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 (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;
 - (2) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - (3) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
 - (4) Any additions to the manufactured home be similarly anchored.
- b. Require manufactured homes that are placed or substantially improved within unnumbered A Zones and AE Zones on the community's FIRM on sites:
 - (1) Outside of 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 one (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A Zones and AE Zones on the community's FIRM, that are not subject to the provisions of Subparagraph (b) of this Subsection, be elevated so that either:

- (1) The lowest floor of the manufactured home is at or one (1) foot above the base flood level; 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 thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
6. *Recreational vehicles.* Recreational vehicles placed on sites within special flood hazard areas on the community's FIRM shall either:
- a. Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use*; or
 - b. Meet the permitting, elevating and the anchoring requirements for manufactured homes of this Chapter.

*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 405.180. Areas of Shallow Flooding (AO and AH Zones).

- A. Located within the areas of special flood hazard established in Article III, Section 405.040 are areas designated as shallow flooding. 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; therefore, the following provisions apply:
1. *Within AO Zones.*
 - a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
 - b. All new construction and substantial improvements of non-residential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified), or
 - (2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the

capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
 - d. The anchoring requirements for manufactured homes as established in Section 410.170, Subsection 4(a) shall be required.
2. *Within AH Zones.*
- a. The specific standards for all areas of special flood hazard where base flood elevation data has been provided shall be required as set forth in Section 410.170.
 - b. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

ARTICLE VI
Non-Conforming Use

Section 405.190. Non-Conforming Use.

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Chapter but which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions:
 - 1. If such use is discontinued for thirty-six (36) consecutive months, any future use of the building premises shall conform to this Chapter. The Utility Department shall notify the Code Enforcement Officer in writing of instances of non-conforming uses where utility services have been discontinued for a period of thirty-six (36) months.
 - 2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.
- B. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred unless reconstructed in conformity with the provisions of this Chapter. 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 any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

ARTICLE VII
Amendments

Section 405.200. Amendments.

- A. The regulations, restrictions, boundaries set forth in this Chapter 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 in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Wellington.

- B. 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 Federal Emergency Management Agency. The regulations of this Chapter are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.