



CITY OF EMPORIA

PUBLIC HEARING

1. Conditional Use Permit Request-Fosho Foods, LLC
2. Zoning Code Amendment-Floodplain Ordinance

AGENDA **EMPORIA PLANNING COMMISSION** *Regular Meeting* **TUESDAY, July 14, 2015 - 6:30 P.M.**

ROLL CALL

APPROVAL OF MINUTES

June 9, 2015 ~ Regular Minutes

NEW BUSINESS

- 15-08. Conditional Use Permit Request-Fosho Foods, LLC.
- 15-09. Zoning Code Amendment-Floodplain Ordinance

ADJOURNMENT

PUBLIC HEARING

- 1. Zoning Code Amendment Request-200 Purdy Road**
 - 2. Conditional Use Permit Request-Harris Avenue**
-

The Emporia Planning Commission held a Public Hearing on Tuesday, June 9, 2015 at 6:30 P.M. in the Council Chambers of the Emporia Municipal Building located at 201 South Main Street, Emporia, Virginia. Mr. Short presided over the meeting.

Mr. Thompson
Mr. Threat
Mr. Ewing
Mr. Bryant
Mr. Short, Vice Chairman
Mr. Lankford

1. Zoning Code Amendment Request-200 Purdy Road

Mr. Thrower stated that Fosho Foods, LLC submitted a zoning code amendment application to add, "Food Processing and Wholesale Distribution of Food Products" as a permitted use in the C-2 Commercial District. Fosho Foods, LLC is requesting the City to allow this use at 200 Purdy Road. He stated that the parcels were identified as City Tax Map Numbers 100-9-1 and 100-9-1A and are currently zoned C-2 Commercial District.

Mr. Thrower stated as in Sec. 90-77 (a) of the City's zoning code, "C-2 commercial districts shall be utilized to accommodate general business areas or for auto or highway-oriented commercial uses, and wholesaling operations which, by nature or space requirements, do not lend themselves to being concentrated within a centralized, C-1 District area."

Mr. Thrower reported that the requested use was currently permitted by-right in, I-1 and I-2 Industrial Districts. Moreover, "Warehouses and Distribution Centers with Conditional Use Permit" is also listed as a permitted use in the C-2 Commercial District.

Mr. Thrower recommended that Sec. 90-77 (b) of the City's zoning code be amended to list "Food Processing and Wholesale Distribution of Food Products with Conditional Use Permit" as permitted use in the C-2 Commercial District. Requiring a conditional use permit will help ensure proper development standards are met and that potential impacts to surrounding properties are addressed through conditions.

He stated that the Commissioners recommendation should be made to City Council regarding this request. City Council will consider this request and your recommendation at its June 16, 2015 meeting.

With there being no comments to come before the Planning Commission, Mr. Short declared the public hearing closed.

Richard Short, Chairman Date

Darlene Cain, Secretary Date

PUBLIC HEARING

2. Conditional Use Permit Request-Harris Avenue

The Emporia Planning Commission held a Public Hearing on Tuesday, June 9, 2015 at 6:30 P.M. in the Council Chambers of the Emporia Municipal Building located at 201 South Main Street, Emporia, Virginia. Mr. Short presided over the meeting.

Mr. Thompson
Mr. Threat
Mr. Ewing
Mr. Vaughan
Mr. Bryant
Mr. Slate, Chairman
Mr. Short, Vice Chairman
Mr. Lankford

2. Conditional Use Permit Request-Harris Avenue

Mr. Thrower stated that Moncure Home submitted a conditional use permit application to place a “multi-sectional manufactured home/mobile home” on Harris Avenue. He stated that the property was zoned R-3 Residential District and is identified as City Tax Map Number 123-04-0-23. “Multi-sectional manufactured/mobile homes” are permitted in R-3 Residential Districts with a conditional use permit. Mr. Thrower further stated that according to the letter provided by the applicant, the proposed 28’ X 80’ Double-wide manufactured home will have a brick foundation. The proposed placement of the home meets all other zoning requirements.

Mr. Thrower recommended approval of this conditional use permit application given the fact that the proposed home will not burden City services, require new infrastructure improvements, negatively impact adjacent property owners, nor generate additional traffic that is incompatible with the surrounding land uses and zoning classifications.

Mr. Thrower stated that the Commissioners would need to make the recommendation to City Council regarding this request. Mr. Thrower stated that City Council would consider this request and your recommendation at its June 16, 2015 meeting.

Ms. Kimberly Hitchman, of *3375 Galleria Drive, Fayetteville, NC* addressed the board, stating that she had received a letter concerning a conditional use permit on Harris Ave. Ms. Hickman stated that it appeared that this is near her property. She wanted to make sure if the location is not impeding on her property. She stated that her property was located at 114 Harris Avenue. Mr. Thrower stated that she had received the letter because she was an adjacent property owner, and the property owners are requesting to put a double wide on the property that abuts her property. Mr. Short stated that the request from would not implead onto her property.

Mr. Alvin Shell of *2330 Orion Road, Jarratt, Virginia* addressed the board. Mr. Shell stated that he was the property owner of 116, 118, 120 Harris Avenue, which is the properties that Ms. Hitchman is referring to and there is adequate space for the mobile home. He also stated that there is a double-wide on Harris Avenue. Mr. Shell stated that he, and his wife are going to use the mobile home as their resident. He further stated that they were the owners, and they will be moving to that address.

Mr. Bryant inquired about the setback and side yard. Mr. Thrower stated that they met all the setback regulations. He also stated that the property owner had recently subdivided five lots into one big lot. He stated that they had plenty of space.

With there being no other comments to come before the Planning Commission, Mr. Short declared the public hearing closed.

Richard Short, Vice-Chairman Date

Darlene Cain, Secretary Date

MINUTES

PLANNING COMMISSION CITY OF EMPORIA MUNICIPAL BUILDING June 9, 2015

Note to Reader: Although the printed agenda document for this Planning Commission meeting is not part of these minutes, the agenda document provides background information on most all the items discussed by the Commission at this meeting. The Secretary of the Planning Commission maintains the agenda document. One may see a copy of the agenda for this meeting by contacting the Secretary.

The Planning Commission held a Regular Meeting on Tuesday, June 9, 2015 at 6:30 p.m. in the Council Chambers of the Municipal Building located at 201 South Main Street, Emporia, Virginia. Mr. Short presided over the meeting.

Upon roll call, the following Commission members indicated their presence:

Mr. Thompson
Mr. Threat
Mr. Lankford
Mr. Ewing
Mr. Short, Vice Chairman
Mr. Bryant

Absent:

Mr. Vaughan
Mr. Newsome
Mr. Slate, Chairman

Others present: Brian Thrower, City Manager
Darlene Cain, Secretary

APPROVAL OF MINUTES

Mr. Ewing moved to approve the minutes from the May 12, 2015 Regular Meeting, seconded by Mr. Lankford, which passed as follows:

Mr. Thompson aye
Mr. Threat aye

Mr. Lankford	aye
Mr. Ewing	aye
Mr. Short	aye
Mr. Bryant	aye

NEW BUSINESS

15-06. Zoning Code Amendment Request-200 Purdy Road

Mr. Thrower stated that he recommended Sec. 90-77 (b) of the City's zoning code be amended to list "Food Processing and Wholesale Distribution of Food Products with Conditional Use Permit" as a permitted use in the C-2 Commercial District. Requiring a conditional use permit will help ensure proper development standards are met and the potential impacts Mr. Thrower stated the Planning Commission needed to make their recommendation to City Council regarding this request. City Council will consider this request and your recommendation at its June 16, 2015 meeting.

Mr. Bryant inquired. How long is a conditional use permit? Mr. Thrower stated that it goes forever not unless you stipulated that it expires at a certain time, and then it would have to come back to the Planning Commission. He further stated that when people ask for code amendments, it is put in the code with a conditional use permit. He stated that this was an indefinite time period.

Mr. Ewing inquired if they are going to be cooking and processing involved in that and smoke. Mr. Thrower stated that what he understood is that they are going to be cooking and there is going to be some smoke involved. He stated in discussing this with them this would be a minimum low scale operation. He further stated that he believed that they did say they would be putting in some proper ventilation.

Mr. Short stated that if this is approved by Council and when they come back they will have more of a formal proposal. Mr. Thrower stated that they would have to put a site plan together and give some additional details.

Mr. Lankford motioned to recommend this request to City Council for approval, seconded by Mr. Threat, which passed as follows:

Mr. Thompson	aye
Mr. Threat	aye
Mr. Lankford	aye
Mr. Ewing	aye
Mr. Short	aye
Mr. Bryant	aye

15-07. Conditional Use Permit Request-Harris Avenue

Mr. Thrower stated that he recommends to recommend approval to City Council to grant the conditional use permit request for the doublewide home. Mr. Thrower stated that the property is zoned R-3 Residential District with no negative impacts in allowing that use.

Mr. Threat motioned recommend this Conditional Use Permit request to City Council for approval, seconded Mr. Lankford, which passed as follows.

Mr. Thompson	aye
Mr. Threat	aye
Mr. Lankford	aye
Mr. Ewing	aye
Mr. Short	aye
Mr. Bryant	aye

ADJOURNMENT

With no further business to come before the Planning Commission, Mr. Short adjourned the meeting.

Richard Short, Vice Chairman

Darlene Cain, Secretary



CITY OF EMPORIA

Memorandum

July 10, 2015

TO: Planning Commissioners

FROM: Brian S. Thrower, City Manager *BST*

SUBJECT: Conditional Use Permit Request – 200 Purdy Road

ITEM #: 15-08

Fosho Foods, LLC has submitted a conditional use permit application to operate a “Food Processing” establishment at 200 Purdy Road. The parcels are identified as City Tax Map Numbers 100-9-1 and 100-9-1A and are zoned C-2 Commercial District. “Food Processing and Wholesale Distribution of Food Products” is a permitted use in the C-2 Commercial District with conditional use permit.

As stated in Sec. 90-77 (a) of the City’s zoning code, “C-2 commercial districts shall be utilized to accommodate general business areas or for auto or highway-oriented commercial uses, and wholesaling operations which, by nature or space requirements, do not lend themselves to being concentrated within a centralized, C-1 district area.”

According to the application, Fosho Foods, LLC plans to “upfit (the) building to use for (as) a USDA inspected facility to cook and wholesale certain foods.” Moreover, the application states, “We will cook approximately 1 day a week, and the facility will have the proper ventilation needed. There will be additional improvements made to the existing facility.”

Recommendation

In reviewing the purpose and intent of the C-2 Commercial District, the nature of the existing land use, and the limited scope of proposed operations, I recommend that Fosho Foods, LLC be granted a conditional use permit. The applicant will be required to adhere to all other zoning and building code requirements before permits are issued. You will need to make your recommendation to City Council regarding this request. City Council will consider this request and your recommendation at its July 21, 2015 meeting.

Attachments

Application
Zoning and Aerial Maps
Tax Map Sheet
Sec. 90-77 C-2 Commercial District
Draft Site Plan



City of Emporia
 Community Development and Planning
 201 South Main Street
 Emporia, Virginia 23847
 (434) 634-3332 (434) 634-0003 (F)

Permit Number 15-0000128
 Date 6/24/15
 Tax Map # 1009011A,2
 Zoning District C2
 Enterprise Zone Yes No

LAND USE AMENDMENT APPLICATION
Information must be typed or printed and completed in full.
Attach additional pages where necessary.

Land Use Information:

Application Type: Variance Rezoning Conditional Use Permit
 Special Exception Amendment Appeal
 Telecommunications Tower Co-location on existing tower

Description of Request: OPERATE A FOOD PROCESSING AREA

Proposed Acreage: _____

Applicant/Agent Information:

Is the applicant: Property Owner (If property owner skip to next section) Contract Purchaser Other: LEASE

Agent(s): FOSKO FOODS, LLC

Phone # 434-348-3581

Address: 1501 WIGGINS ROAD EMPORIA, VA.

If you are the agent for the property owner, do you have consent of the owner attached? Yes No

Property Owner Information:

Property Owner (s): SHALEN BROTHERS OIL CO.

Phone # 434-634-2127

Address: 200 PARROT ROAD
EMPORIA, VA. 23847

Property owners mailing address (If this is different from that listed in the Assessor's Office)

529 N. MAIN ST.
EMPORIA, VA. 23847

Subject Parcel Information

Location of Property: 200 Purdy Road

Street Address: 200 Aunty Road
Emmoria, VA 23067

General Description of Property:

Current Zoning (circle one)

R-1 R-2 R-3 C-1 C-2 I-1 I-2 DT Other _____

Proposed Zoning (for rezoning request)

R-1 R-2 R-3 C-1 C-2 I-1 I-2 DT Other _____

Existing Use(s) of Property

CONDITIONAL USE REQUEST

A. Explain fully the proposed use, type of development, operation program, reason for this request, etc.:

WOUND TO UPFIT BUILDING TO USE FOR A USDA
INSPECTED FACILITY TO COOK & WHOLESALE CERTAIN FOODS

B. Section(s) of the City Code that pertain to this request

C. State how this request will not be materially detrimental to adjacent property, the surrounding neighborhood or City in general. Include where applicable; information concerning use of public utilities/services, relationship to the comprehensive plan effect of request on public schools, traffic impact, means of access to nearest public road, existing and future area development, etc.

WE WILL COOK APPROX 1 DAY A WEEK AND THE FACILITY
WILL HAVE THE PROPER VENTILATION NEEDED. THERE WILL BE
ADDITIONAL IMPROVEMENTS MADE TO THE EXISTING FACILITY

D. Has any previous application for a land use amendment been filed in connection with these parcels? List case numbers and explain any existing use permit, special exception, conditional use or variance previously granted on the parcels in question. If this application is to amend an existing special use

permit, special exception, or other applicable amendment, please explain the request (proposed change in structure(s) including all signs).

NG

E. Proffers and Conditions

List any conditions or proffers currently associated with this property.

N/A

If the applicant proffers any conditions (§ 15.2-2297 of the Code of Virginia), they must:

- 1) Have a reasonable relationship to the rezoning
- 2) Not include a cash contribution to the City of Emporia
- 3) Not include mandatory dedication of property
- 4) Not include payment for construction of off-site improvements

Proffers may be amended in writing prior the Planning Commission public hearing.

If this is an application for a **conditional zoning**, the following conditions are voluntarily proffered:

F. Please list any and all restrictive covenants, deed restrictions and other special considerations:

N/A

G. If required by the Zoning Administrator, attach a site plan / plot plan / survey plat / building dimensions / densities showing the location(s) of existing and proposed structures to be erected and applicable setback lines and distances including all zoning district requirements.

Notes:

- (1) Special use permits shall be for an indefinite period of time unless the Planning Commission imposes a condition specifying a shorter duration. Such permits shall run with the land unless the City of Emporia imposes a more restrictive condition with regard to the succession to rights in such a permit.
- (2) The City of Emporia may include, as part of the ordinance granting any conditional use permit, suitable regulations and safeguards as it may deem appropriate. Once a special use permit is approved subject to such conditions, they shall be deemed to be a part of the zoning ordinance and may be enforced by the zoning administrator. Conditions attached to a special use permit may only be amended or deleted by subsequent application for the purpose.
- (3) This application for a conditional special use permit must be accompanied by two (2) copies of any required site plans or plot plans.

H. If requesting a variance, explain the unique physical hardship or extraordinary situation (size, shape, topography, etc.) that is justification for the request:

N/A

I. Explain how the zoning ordinance prohibits or unreasonable restricts the use of the property.

N/A

J. Applicant Remarks

Checklist:

- ✓ The required fee must accompany this application. A fee schedule is attached for your convenience Checks must be made payable to: "Treasurer, City of Emporia".
- ✓ Enclosed with the application, a copy of the appropriate city tax map with the property marked and, if available, a surveyed plat of the entire parcel.
- ✓ Enclose with this application any required plans or plats (plans must be folded).
- ✓ Enclose with this application any additional information to assist with review and determination.

I/We hereby certify that to the best of my/our knowledge all the above statements and the statements contained in any exhibits transmitted are true and that the adjacent property owners listed herewith are the owners of record as of the date of the application:

Date: JUNE 24, 2015

Applicants Name FOSHU FEASS, LLC by Angela Sade
(Typed or printed)

Signature of Applicant Angela J. Sade

Note: Incomplete application will not be accepted. Any request that requires plans must be accompanied by application at time of submission.

For Office Use by the Community Development Planning and Zoning Department and/or the Planning Commission

Zoning/Subdivision Code (90-14 or 66-8): Fee Paid:

Copy of Receipt attached

Action Taken:

Planner / Zoning Administrator

Date

Planning Commission

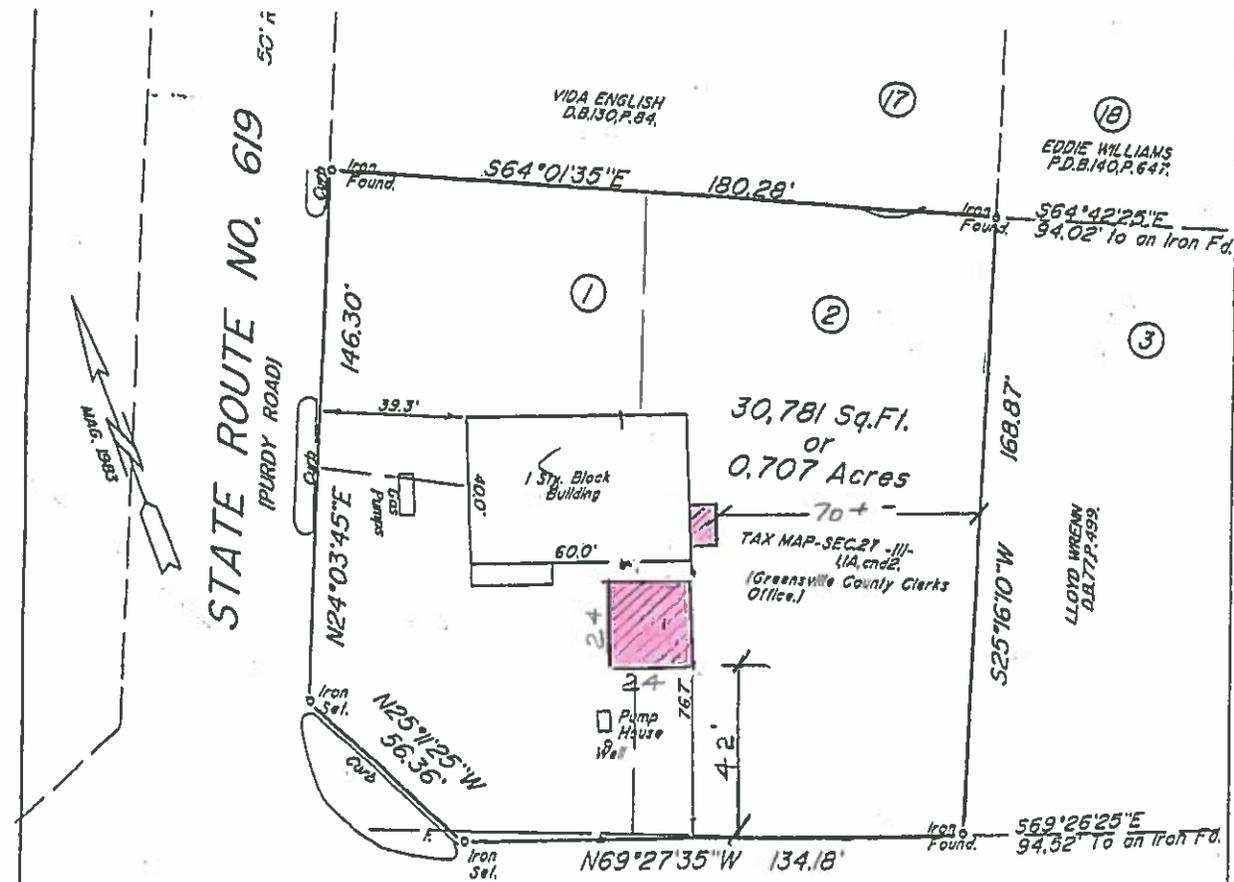
Date

City Council

Date

PERMIT FEES

VARIANCE	\$300.00
REZONING	\$400.00 + 50/lot
CONDITIONAL USE PERMIT ✓	\$300.00
TELECOMMUNICATIONS TOWER (CONDITIONAL USE)	\$1,500.00 per plus review by private consultant if deemed necessary for final approval
CO-LOCATION ON EXISTING TOWER (CONDITIONAL USE)	\$300.00 per plus review by private consultant if deemed necessary for final approval
SPECIAL EXCEPTION	\$300.00
AMENDMENT TO CONDITIONAL USE	\$300.00
RENEWAL OF CONDITIONAL USE	\$300.00
REQUEST FOR PRIVATE ROAD- NAME/SIGN	\$100.00
REQUEST TEXT AMENDMENT	\$400.00
APPEAL	\$300.00
AMENDMENT TO PROFFERED REZONING	\$300.00



STATE ROUTE NO. 619
 (PURDY ROAD)
 50' R/W

STATE ROUTE NO. 686
 (WEST END DRIVE)
 50' R/W

PLAT SHOWING PROPERTY OF
SADLER BROTHERS OIL COMPANY, INC.

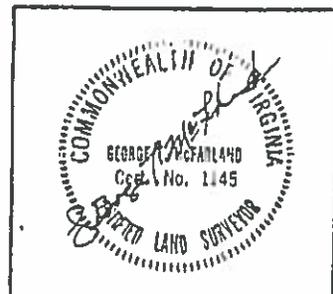
Being the remainder of Lots ① and ②
 and an un-numbered Lot at the NE
 intersection of the Purdy Road and
 West End Drive, "Nora Kistler SID".

City of Emporia, Virginia

Legal Ref. : D.B.146, P.12.
 Plat Ref. : P.B. 5, P.1.

March 30, 1988

Scale : 1"=40'

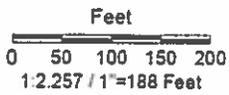


GEORGE T. MCFARLAND, CLS
 EMPORIA, VA.

Legend

- City Boundary
- Parcels
- Site Addresses
- Road Centerlines
- Streams and Rivers
- Water Bodies

site



Title:

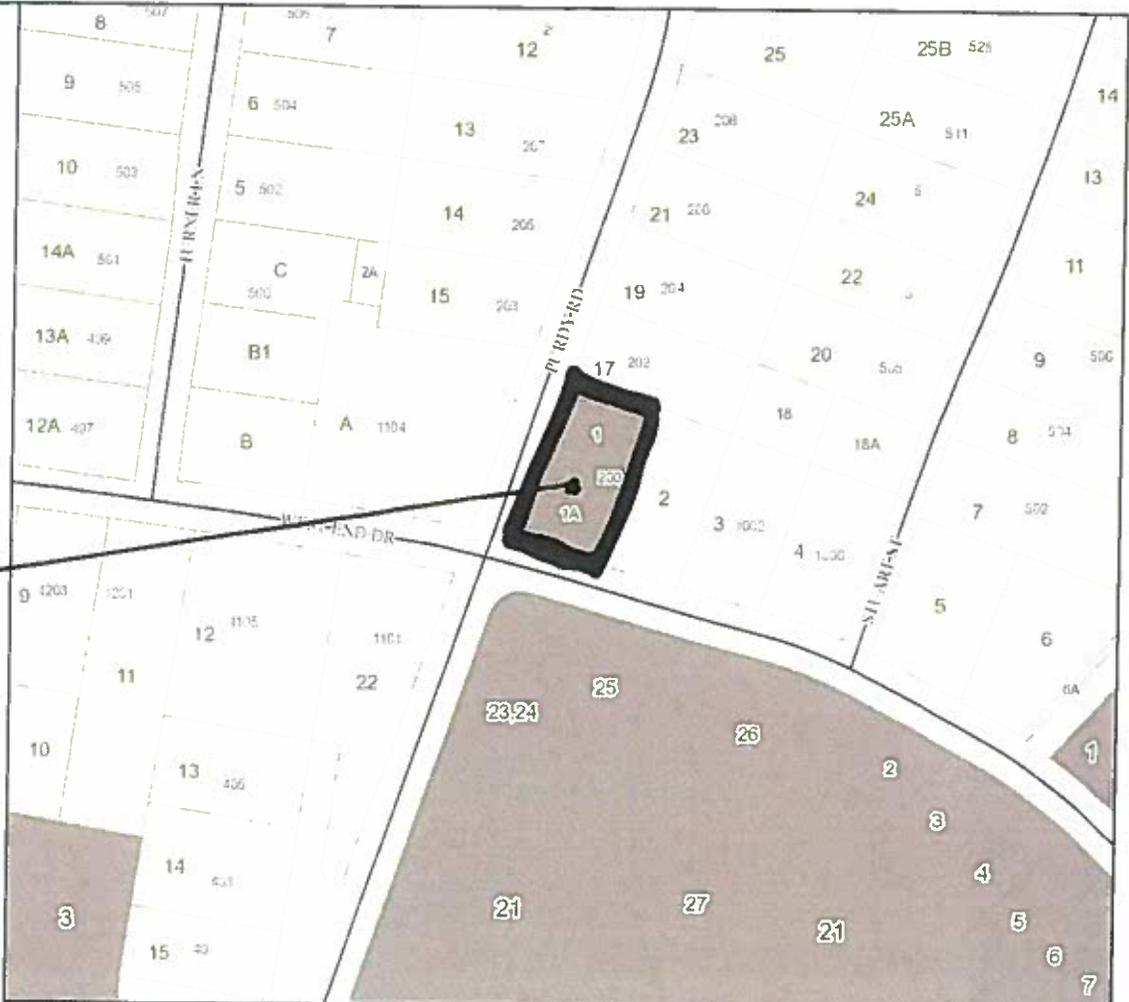
Date: 6/4/2015

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Emporia is not responsible for its accuracy or how current it may be.

Legend

-  City Boundary
-  Parcels
-  Site Addresses
-  Road Centerlines
- Zoning**
-  DT DOWNTOWN
-  C-1 GENERAL COMMERCIAL
-  C-2 AUTO COMMERCIAL
-  I-1 INDUSTRIAL
-  I-2 INDUSTRIAL
-  R-1 SINGLE FAMILY
-  R-2 SINGLE FAMILY
-  R-3 MULTI-FAMILY
-  Streams and Rivers
-  Water Bodies

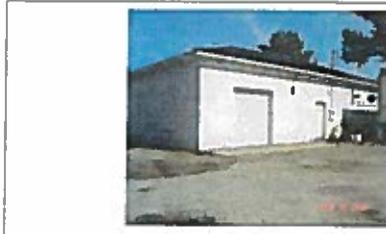
Site



Emporia, Virginia

Map Pin	Tax Map Number	Address	Deed Book Reference
100-9-1	100 -9 -0 -1,1A,2	200 PURDY ROAD Emporia, Va 23847	DB146 P12

Owner Information	
Owner	SADLER BROS OIL CO INC
Owner's Address:	P O BOX 871 EMPORIA VA 23847



Summary

Property Information

Residential	No Data	Well	No Data
Commercial	Y	Spring	No Data
Class	04	Paved Road	Y
Zone	C-2 AUTO COMMERCIAL	Improvement Value	36200
Property Use	WAREHOUSE-STORAGE	Land Value	26000
Description Land Area	SITE	Sale Price	No Data
Size Main Land Area	0	Sale Date	No Data
Computed Main Land Area	32479	Account Number	255051
Public Water	Y	Dirt Road	No Data
Public Sewer	Y	Road	No Data
Septic System	No Data	Sidewalk	No Data
Underground Utility	No Data	Topography	LEVEL
Gutter	No Data		

Improvement Information

Year Built	1960	Split Foyer	No Data
Year Remodeled	1975	Central Heat	No Data
Year Assessed	2014	Central Air	No Data
Number Stories	1.0	Roof Type	COMP.SH.
Number Rooms	0	Exterior Type	CINDER BLOCK
Number Bedrooms	0	Basement Type	NONE
Number Bathrooms	0	Exterior Condition	A/F
Number Fireplaces	0	Foundation Type	SLAB
Number Chimneys	0	Floor Type	CRETE/TILE
Split Level	No Data	Wall Type	C/B
Building Description	WRHS/STRG	Heat Fuel Type	UNIT
Square Footage	2400	Subdivision	PURDY ROAD

DISCLAIMER: This data is provided without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Any person, firm or corporation which uses this map or any of the enclosed information assumes all risk for the inaccuracy thereof. The City of Hampton expressly disclaims any liability for loss or damage arising from the use of said information by any third party.

Previous Owner	
Previous Owner 1	
Previous Owner	No Data
Datebase Reference	PB5 P1
Previous Owner's Address	No Data
Date of Transfer	No Data
Sale Price	No Data
Previous Owner 2	
Previous Owner	No Data
Datebase Reference	No Data
Previous Owner's Address	No Data
Sale Price	No Data

DISCLAIMER: This data is provided without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Any person, firm or corporation which uses this map or any of the enclosed information assumes all risk for the inaccuracy thereof, as City of Hampton expressly disclaims any liability for loss or damage arising from the use of said information by any third party.

Sec. 90-77. - C-2 commercial district.

- (a) *Purpose and intent.* C-2 commercial districts shall be utilized to accommodate general business areas or for auto or highway-oriented commercial uses, and wholesaling operations which, by nature or space requirements, do not lend themselves to being concentrated within a centralized, C-1 district area.
- (b) *Uses permitted.* Permitted uses in a C-2 district are as follows:
- All uses permitted in C-1 districts.
 - Adult day support facility.
 - Appliance stores.
 - Automobile, truck, manufactured housing sales, services, storage and repairs.
 - Bakery.
 - Barber shops and beauty parlors.
 - Bed, breakfast and tourist homes.
 - Bookstores.
 - Bowling alleys.
 - Building, plumbing, woodworking, wholesaling, air conditioning, sheet metal, electrical and painting contractors' establishments, offices and display rooms, provided that any materials or supplies in an unenclosed area must be arranged so as not to detract from the orderly appearance of the area.
 - Building supplies and service with storage under cover.
 - Branch banks.
 - Car washes.
 - Cards, flower and gift shops.
 - Churches.
 - Commercial, recreational and amusement facilities, with conditional use permit.
 - Child care centers.
 - Delicatessen.
 - Drugstores.
 - Food processing and wholesale distribution of food products with conditional use permit.
 - Funeral homes.
 - Furniture stores.
 - Gasoline service stations, with all repair and storage of vehicles taking place in a fully enclosed

building.

Grocery stores.

Internet sweepstakes cafe with conditional use permit.

Jewelry stores.

Laundromats and dry cleaners.

Machinery sales and service.

Mini-storage facilities.

Motels/hotels.

Nightclubs with conditional use permit.

Pet service and supply establishments.

Photographers.

Printing establishments.

Professional, business, and public offices.

Radio and television broadcasting stations.

Repair service or business, including repair of bicycles, locks, lawn mowers and other small appliances.

Restaurants, including fast food and drive-through types.

Roller skating rinks.

Sexually-oriented businesses (conditional use permit).

Shopping centers.

Tailors and shoe repair shops.

Taxicab establishments.

Theaters.

Tire recapping and vulcanizing.

Trade or vocational schools, with conditional use permit.

Transportation terminals, automobile and truck sales, service, storage and repairs.

Veterinary hospitals, with conditional use permit.

Warehouses and distribution centers, with conditional use permit.

- (c) *Height regulations.* Buildings in a C-2 district may not be erected more than 45 feet in height without prior [approval] of the city planning commission.
- (d) *Area regulations.* None, except if the permitted uses utilizes a private water or sewage system, the



CITY OF EMPORIA

Memorandum

July 10, 2015

TO: Planning Commissioners

FROM: Brian S. Thrower, City Manager *BST*

SUBJECT: Zoning Code Amendments – Floodplain Ordinance

ITEM #: 15-09

I have been working with Virginia Department of Conservation and Recreation (DCR) staff to update the City's Floodplain Ordinance in accordance with Federal Emergency Management Agency (FEMA) regulations. At its June 2, 2015 meeting, City Council requested you review the proposed amendments and offer a recommendation. Attached is the revised ordinance that meets current FEMA requirements.

Recommendation

I recommend approval of the attached ordinance. You will need to make your recommendation to City Council regarding these amendments. City Council will consider this item and your recommendation at its July 21, 2015 meeting.

Attachment

Revised Floodplain Ordinance

Ordinance

AN ORDINANCE TO AMEND CHAPTER 90, ARTICLE VI
OF THE CODE OF THE CITY OF EMPORIA, VIRGINIA

BE IT ORDAINED by the City Council of the City of Emporia, Virginia, in regular assembly that:

Chapter 90, Article VI of the Code be amended and re-enacted to read as follows:

ARTICLE VI. - FLOODPLAIN ZONING REGULATIONS

FOOTNOTE(S):

-- (3) --

Editor's note— Ord. No. 09-44, adopted July 21, 2009, amended Art. VI in its entirety, in effect deleting Art. VI and enacting a new Art. VI to read as set out herein Former Art. VI pertained to similar subject matter and derived from Ord. No. 09-16, adopted June 2, 2009.

Cross reference— Buildings and building regulations, ch. 14; conformity of subdivision to floodplain regulations, § 66-110.

State Law reference— Flood protection and dam safety, Code of Virginia, § 10.1-600 et seq.

Sec. 90-181. — Authorization and Purpose of article.

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 10.1 – 600.

- (a) The purpose of this article is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
- (1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
 - (2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.
 - (3) Requiring all those uses, activities and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage.
 - (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- (b) *Definitions.*

Appurtenant or accessory structure. Accessory structures not to exceed 200 sq. ft.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation. 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. The water surface elevation of the base

flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood. The Federal Emergency Management Agency designated 100-year water surface elevation.

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

Board of zoning appeals. The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this article.

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

Elevated building. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction. Structures for which the "start of construction" commenced before the effective date of the city's initial FIRM, February 2, 1989. "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.

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or,
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) 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 an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a of this definition.
- (3) Mudflows which are proximately caused by flooding as defined in subsection (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. Flood insurance rate map (FIRM). An official map of a community on which the administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood insurance study (FIS). An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source.

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

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 a designated height. [CBK1]

Freeboard. 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 wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

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.

Hydrologic and Hydraulic Engineering Analysis. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of Map Change (LOMC). A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a Land as defined by meets and bounds or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and

planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR). A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

Lowest adjacent grade. The lowest natural elevation of the ground surface next to the walls of a structure.

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 non-elevation design requirements of Federal Code 44CFR § 60.3.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of ~~an initial flood insurance rate map on or after December 31, 1974, whichever is later~~ February 2nd, 1989, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which 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 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 on or after the effective date of floodplain management regulations adopted by a community.

Post-FIRM structures. A structure for which construction or substantial improvement occurred after February 2nd, 1989 whichever is later.

Pre-FIRM structures. A structure for which construction or substantial improvement occurred on or before February 2nd, 1989.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (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.

Repetitive Loss Structure. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

Severe repetitive loss structure. A structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage – (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000, or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Special flood hazard area. The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 90-186(2).

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. 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 rating 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 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic

Places on the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

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

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

~~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 in this ordinance is presumed to be in violation until such time as that documentation is provided.~~

(Ord. No. 09-44, 7-21-09)

Sec. 90-182. - Applicability of article.

This article shall apply to all lands within the jurisdiction of the city and identified as being in the **100-year floodplain** Special Flood Hazard Area by the Federal Emergency Management Agency.

(Ord. No. 09-44, 7-21-09)

Sec. 90-183. - Compliance with article and liability of city.

- (a) After the effective date of this article, no land shall be developed, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.
- (b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodplain districts, or that land uses permitted within such districts, will be free from flooding or flood damages.
- (c) This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.
- (d) Records of actions associated with administering this article shall be kept on file and maintained by the City of Emporia.

(Ord. No. 09-44, 7-21-09)

Sec. 90-184. - Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this article. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this article are hereby declared to be severable.

(Ord. No. 09-44, 7-21-09)

Sec. 90-185. - Abrogation and greater restrictions.

This article supersedes any ordinance currently in effect in ~~400-year one-percent annual chance~~ floodplain areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

(Ord. No. 09-44, 7-21-09)

Sec. 90-186. - Description of districts.

- (a) *Basis of districts.* The various floodplain districts shall include areas subject to inundation by waters of the ~~400-year one-percent annual chance~~ flood. The basis for the delineation of these districts shall be the "Flood Insurance Study and Flood Insurance Rate Map for the City of Emporia," prepared by the Federal Emergency Management Agency, dated July 7, 2009, and any subsequent revisions or amendments thereto. On this map, the ~~400-year one-percent annual chance~~ floodplain boundary corresponds to the boundary of the areas of special flood hazards (zones A and AE).

The city may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the city offices.

- (1) The floodway district is delineated, for purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the ~~400-year flood one-percent annual chance flood~~ without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in Table 1 of the above-referenced flood insurance study and shown on the accompanying flood insurance rate map.
 - (2) The special floodplain district shall be those areas identified as an AE zone on the maps accompanying the flood insurance study for which ~~400-year flood one-percent annual chance~~ elevations have been provided.
 - (3) The approximated floodplain district shall be those areas identified as an A or A99 zone on the maps accompanying the flood insurance study. In these zones, no detailed flood profiles or elevations are provided, but the ~~400-year floodplain one-percent annual chance floodplain~~ boundary has been approximated.
- (b) *Overlay concept.* The overlay concept is as follows:
- (1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning map, and, as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions.
 - (2) If any conflict exists between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

(Ord. No. 09-44, 7-21-09)

Sec. 90-187. - District boundary changes.

The delineation of any floodplain districts may be revised by the city council where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers, or other qualified agency or individual documents the need or possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Ord. No. 09-44, 7-21-09)

Sec. 90-188. - Submitting technical data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

(Ord. No. 09-44, 7-21-09)

Sec. 90-189. - Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning administrator. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

(Ord. No. 09-44, 7-21-09)

Sec. 90-190. - District provisions.

- (a) All uses, activities and development occurring within any floodplain district shall be undertaken only with the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as chapter 66 and the Virginia Uniform Statewide Building Code. Prior to the issuance of any such permit, the zoning administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.
- (b) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this city, approval shall be obtained from the division of dam safety and floodplain management (department of conservation and recreation). A permit from the U.S. Army Corps of Engineers and the Marine Resources Commission and certification from the state water control board may be necessary (a joint permit application is available from any one of these three organizations). Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notification shall be provided to the division of dam safety and floodplain management (department of conservation and recreation) and the Federal Emergency Management Agency.
- (c) All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 - (1) For structures that have been elevated, the elevation of the lowest floor, including the basement.
 - (2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.
 - (3) The elevation of the 100-year flood-Base Flood at the site.
 - (4) Topographic information showing existing and proposed ground elevations.
- (d) All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code.
- (e) New construction and substantial improvements shall be according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- (f) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- (g) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (h) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (i) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (j) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (k) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(Ord. No. 09-44, 7-21-09)

State law reference— State water control board, Code of Virginia, § 62.1-44.7 et seq.

Sec. 90-191. - Floodway district.

- (a) *Generally.* In the floodway district, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required in this article.
- (b) *Permitted uses.* In the floodway district, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials and equipment:
 - (1) Agricultural uses, such as general farming, pasture, grazing, outdoor-plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
 - (2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves and hunting and fishing areas.
 - (3) Accessory residential uses, such as yard areas, gardens, play areas and parking areas.
 - (4) Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, etc.

(Ord. No. 09-44, 7-21-09)

Sec. 90-192. - Standards for the special floodplain district.

The following provisions shall apply within the special floodplain district:

- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as zones A and AE on the flood rate insurance map, 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 city.
- (2) Development activities in zones A and AE on the city's flood insurance rate map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies — with the city's endorsement — for a conditional flood insurance rate map revision, and receives the approval of the Federal Emergency Management Agency.
- (3) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a ~~100-year~~one-percent annual chance floodplain

boundary has been approximated. Such areas are shown as zone A on the maps accompanying the flood insurance study. For these areas, the ~~100-year~~one-percent annual chance flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific ~~100-year~~one-percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the zoning administrator.

- (4) When such base flood elevation data is utilized, the lowest floor shall be two feet above the base flood elevation. During the permitting process, the zoning administrator shall obtain:
- a. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
 - b. If the structure has been flood-proofed in accordance with the requirements of this article, the elevation to which the structure has been floodproofed. All floodproofing must be certified by a professional engineer.

(Ord. No. 09-44, 7-21-09)

Sec. 90-193. - Design criteria for utilities and facilities.

- (a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate the infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they shall be located and constructed to minimize or eliminate flood damage and impairment.
- (b) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate the infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.
- (c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow or surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The city council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (d) *Utilities.* All utilities, such as gas lines, electrical and telephone systems, being placed in ~~100-year~~one-percent annual chance floodplain areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood occurrence.
- (e) *Streets and sidewalks.* Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(Ord. No. 09-44, 7-21-09)

Sec. 90-194. - Base flood elevation determined.

In all special flood hazard areas where base flood elevations have been provided in the flood insurance study or generated according to section 90-192(c), the following provisions shall apply:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation.
- (2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than two feet above the base flood elevation. Buildings located in all A and AE zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
- (3) *Elevated buildings.* Enclosed areas, of new construction or substantially improved structures, which are below-the regulatory flood protection elevation shall:
 - a. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
 - b. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
 - c. Include, in zones A and AE, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 2. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.
 3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 4. The bottom of all required openings shall be no higher than one foot above the adjacent grade.
 5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(Ord. No. 09-44, 7-21-09)

Sec. 90-195. - Variances; factors to be considered.

- (a) In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:
 - (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within the floodway district that will cause any increase in flood levels during the 100-year one-percent annual chance flood.

- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - (4) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owners.
 - (5) The importance of the services provided by the proposed facility to the community.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.
 - (8) The compatibility of the proposed use with existing development, and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan, and the floodplain management program for the area.
 - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
 - (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (13) Such other factors which are relevant to the purposes of this article.
- (b) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
 - (c) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in:
 - (1) Unacceptable or prohibited increases in flood heights;
 - (2) Additional threats to public safety;
 - (3) Extraordinary public expense; and will not:
 - a. Create nuisances, cause fraud or victimization of the public; or
 - b. Conflict with local laws or ordinances.
 - (d) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from hardship.
 - (e) The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the ~~100-year flood~~base flood elevation:
 - (1) Increases the risks to life and property; and
 - (2) Will result in increased premium rates for flood insurance.
 - (f) A record shall be maintained of the notification contained in subsection (e) of this section, as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be stated in the annual or biennial report submitted to the Federal Insurance Administration.

(Ord. No. 09-44, 7-21-09)

Sec. 90-196. - Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of this ordinance, but which is not in conformity with this article, may be continued, subject to the following conditions:

- (1) Existing structures and/or uses located in the floodway district shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure, and/or use located in any floodplain district to an extent or amount of less than 50 percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- (3) The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
- (4) Uses or adjuncts thereof which are or become nuisances shall not be permitted to continue.

(Ord. No. 09-44, 7-21-09)

Sec. 90-197. - Standards for manufactured homes and recreational vehicles.

- (a) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements.
- (b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has not incurred substantial damage as the result of a flood shall be elevated so that ~~either (1) the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation and be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement, or~~
~~(1) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade. [свкз]~~
~~(2) And be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.~~
- (c) All recreational vehicles placed on sites must either:
 - (1) Be on the site for fewer than 180 consecutive days;
 - (2) Be fully licensed and ready for highway use (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); or,
 - (3) Meet all the requirements for manufactured homes.

(Ord. No. 09-44, 7-21-09)

Sec. 90-198. - Standards for subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance

Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

(Ord. No. 09-44, 7-21-09)

Sec. 90-199. - Penalty for violation.

- (a) Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the city shall be guilty of a violation in accordance with section 90-5
- (b) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the city [to] be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Ord. No. 09-44, 7-21-09)

Sec. 90-200 – Administration.

(a) Designation of the Floodplain Administrator [44 CFR 59.22(b)]

The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

(1) Do the work themselves.

(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

(b) Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(1) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(4) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the one-percent annual chance floodplain of free-flowing non-tidal waters of the State.

(5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

(6) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).

(7) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

(8) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(9) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(10) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the city within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(11) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

b. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(12) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(13) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(14) Administer the requirements related to proposed work on existing buildings:

a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(15) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(16) Notify the Federal Emergency Management Agency when the corporate boundaries of the city have been modified and:

a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption, such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(17) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(18) It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(c) Use and Interpretation of FIRMs [44 CFR 60.3]

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(1) Where field surveyed topography indicates that adjacent ground elevations:

a. Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

b. Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(5) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

a. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

b. Prior to the issuance of a Letter of Final Determination by FEMA by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

c. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the

base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(d) Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

(e) Letters of Map Revision

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12)

Secs. 90-~~200~~201—90-220. - Reserved.

Adopted: July 21, 2015

By _____
Mary L. Person
Mayor

Attest:

Form Approved:

City Clerk

City Attorney