

Kansas Statutes 12-766. Same; flood plain zones; requirements; approval by chief engineer

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(a) The governing body may establish flood plain zones and districts and restrict the use of land therein and may restrict the application thereof to lands, adjacent to watercourses, subject to floods of a lesser magnitude than that having a chance occurrence in any one year of 1%. Any flood plain regulations shall comply with the minimum requirements of the national flood insurance act of 1968, as amended (42 U.S.C. § 4001 et seq.) or any rules and regulations adopted pursuant thereto.

(b) Prior to the adoption thereof, the governing body shall submit to the chief engineer of the division of water resources of the Kansas department of agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a flood plain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area. The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby. If the chief engineer fails to approve or disapprove within the 90 day period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

(c) The chief engineer shall adopt such rules and regulations deemed necessary to administer and enforce the provisions of this section.

Floodplain Management Regulations

K.A.R. 5-44-1. Floodplain management; definitions. As used in these regulations, K.S.A. 12-766, and by the division of water resources in administering K.S.A. 12-766, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section: (a) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

(b) "Chief engineer" means the chief engineer of the division of water resources, Kansas state board of agriculture.

(c) "Development" means any man-made change to real estate, including, but not limited to:

- (1) buildings or other structures;
- (2) mining;
- (3) dredging;
- (4) filling;
- (5) grading;
- (6) paving;
- (7) excavation or drilling; or
- (8) storage of equipment or materials.

(d) "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land from:

- (1) the overflow of waters normally confined between the banks of a stream or other watercourse, or
- (2) the unusual, rapid accumulation or runoff of surface waters from any source.

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

(f) "Lowest floor" means the lowest enclosed area, including a basement, of a building. An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor.

(g) "Permit" means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as:

- (1) the site plan;
- (2) an elevation certificate; and
- (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

(h) "Structure" means a walled and roofed building, a manufactured house, or above ground gas or liquid storage tank.

(b) When all the data required by the chief engineer is received, the chief engineer shall notify the governing body in writing as to the beginning and ending dates of the 90 day statutory time period for review. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

K.A.R. 5-44-4. Floodplain management; zoning regulations; minimum standards and criteria. Any zoning regulation which regulates development of floodplains shall include the following minimum standards and criteria: (a) Flood hazard areas shall be identified as follows:

(1) The flood hazard area subject to floodplain management zoning regulation shall be identified by reference to a specific map used to identify the flood hazard. The identification of the map shall include the preparer of the map and the date it was prepared.

(2) When the flood hazard map is revised and republished with a new effective date, the governing body's floodplain management zoning regulations shall amend the zoning regulations to adopt the new map by reference.

(b) The development standards shall meet or exceed the minimum requirements of the national flood insurance act of 1968, as amended, 42 U.S.C. Section 4001 *et seq.* and the regulations adopted pursuant to that act.

(c) Any development standards adopted by the governing body for which minimal requirements have been set by the chief engineer in K.A.R. 5-45-1 *et seq.* shall meet or exceed the requirements of the chief engineer.

(d) The governing body shall designate a local floodplain administrator by position or job title. The local floodplain administrator's responsibilities shall include:

- (1) the review and issuance of floodplain development permits;
- (2) the conduct or direction of appropriate inspections;
- (3) the maintenance of any records necessary to document compliance with floodplain development permit conditions; and
- (4) any other matters deemed appropriate by the governing body.

(e) The governing body shall designate by position or job title an enforcement officer who is responsible to enforce the actions of the local floodplain administrator.

(f) The local floodplain administrator and enforcement officer may be combined in a single position or job title.

(g) If any part of a proposed development is located within the floodplain, an application for floodplain development permit shall be made to the local floodplain administrator. The application for a floodplain development permit shall contain:

(1) Sufficient detail for the local floodplain administrator to determine the nature of proposed development and whether permits or approvals are needed from the governing body, state or federal authorities, especially any permits or approvals that may be required by K.S.A. 24-126 or K.S.A. 82a-301 *et seq.* and their respective regulations; and

(2) Written documentation of adequate protection from damages which could be caused by the base flood.

requirements are necessary to protect the public interest, protect the public safety or prevent damage to public or private property. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

K.A.R. 5-44-7. Certification of elevations. Any elevation required to be certified to meet the requirements of this article of regulations may be certified by either a licensed land surveyor or a licensed professional engineer. (Authorized by and implementing K.S.A. 2006 Supp. 12-766; effective May 18, 2007.)