

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 107 OF THE NIXA CITY CODE FOR THE PURPOSE OF UPDATING THE CITY'S REGULATIONS RELATED TO FLOODPLAIN MANAGEMENT

Background:

The proposed amendments to Chapter 107 are designed to meet the minimum Federal requirements for communities that participate in the National Flood Insurance Program (NFIP). When the Federal Emergency Management Agency (FEMA) maps flood hazards in a community, two products are produced, a Flood Insurance Rate Map (FIRM) and a Flood Insurance Study (FIS). A FIRM illustrates the extent of flood hazards in a community by showing flood risk zones and is used with the FIS report to determine the floodplain development regulations that apply in each flood risk zone and who must buy flood insurance. In 2018, Christian County was selected for a DFIRM mapping update. This update will more accurately portray the flood risk throughout the county.

This code amendment is designed from a sample ordinance provided by Missouri's State Emergency Management Agency (SEMA) after they reviewed the City's floodplain management ordinance.

The amendments do not prohibit development in the special flood hazard areas. They are designed to set forth minimum performance standards for new construction or substantially improved structures.

Analysis:

The amendment includes new definitions. For example, the commonly referred to 100-year flood, which is used to reference a flood that is statistically supposed to happen once every one-hundred years. These events are happening more frequently in recent years. The 100-year flood is now referred to as the base flood, which is now added to the definition section of Chapter 107. With more accurate floodplain mapping in Christian County, we now have Numbered A zones. These are special flood hazard areas where the FIRM shows the Base Flood Elevation (BFE). Older FIRMS for Christian County did not show Numbered A Zones. The definition for Numbered A Zone has been added. There are other new definitions that have been added to comply with NFIP requirements.

This amendment will also adopt the new FIRM panels that will be effective November 2, 2023. These new panels will be more detailed than previous panels due to advances in mapping technology and engineering practices regarding floodplains.

Section 107-40 now allows the City Administrator to appoint the Floodplain Administrator for the City. This code section previously appointed the City Planner as the Floodplain Administrator. The duties of the Floodplain Administrator can be performed by many a qualified staff member and should not be exclusively relegated to an individual with the title of City Planner.

Other changes to Section 107 include minor language updates, additional information in specific sections, and eliminating outdated sections.

Planning and Zoning Commission:

A public hearing was held at the September 11th Planning and Zoning Commission meeting. Nobody approached the Commission during the public hearing. The Planning and Zoning Commission unanimously voted to recommend approval to Nixa City Council.

Recommendation:

This code amendment features the minimum required language to continue our participation in the NFIP. Staff recommends the approval of this code amendment.

MEMO SUBMITTED BY:

Scott Godbey | Director of Planning and Development

sgodbey@nixa.com | 417-725-5850

1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER**
2 **107 OF THE NIXA CITY CODE FOR THE PURPOSE OF UPDATING THE CITY'S**
3 **REGULATIONS RELATED TO FLOODPLAIN MANAGEMENT.**
4

5
6 **BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NIXA, AS FOLLOWS,**
7 **THAT:**
8

9 **SECTION 1:** Chapter 107 of the Nixa City Code is hereby amended by repealing
10 said Chapter in its entirety and adopting in lieu thereof a new Chapter, which shall read
11 as follows:
12

13 (Note: Language to be added is indicated by being underlined. Language to be removed
14 is indicated by being ~~stricken~~.)
15

16 Chapter 107 FLOODPLAIN MANAGEMENT
17

18 ARTICLE I. IN GENERAL
19

20 Sec. 107-1. Definitions
21

22 Unless specifically defined below, words or phrases used in this chapter shall be
23 interpreted so as to give them the same meaning they have in common usage and to give
24 this chapter its most reasonable application.
25

26 *100-year Flood.* See base flood.
27

28 *Accessory structure* means the same as appurtenant structure.
29

30 *Actuarial or Risk Premium Rates* ~~see "risk premium rates." means those rates~~
31 ~~established by the administrator pursuant to individual community studies and~~
32 ~~investigations which are undertaken to provide flood insurance in accordance with section~~
33 ~~1307 of the national Flood Disaster Protection Act of 1973 and the accepted actuarial~~
34 ~~principles. The term "risk premium rates" includes provisions for operating costs and~~
35 ~~allowances.~~
36

37 *Administrator* means the Federal Insurance Administrator.
38

39 *Agency* means the Federal Emergency Management Agency (FEMA).
40

41 *Agricultural Commodities* means agricultural products and livestock.
42

43 *Agricultural Structure* means any structure used exclusively in connection with the
44 production, harvesting, storage, drying, or raising of agricultural commodities.
45

46 *Appeal* means a request for review of the floodplain administrator's interpretation
47 of any provision of this chapter or a request for a variance.

48
49 *Appurtenant Structure* means a structure that is on the same parcel of property as
50 the principal structure to be insured and the use of which is incidental to the use of the
51 principal structure.

52
53 *Area of Special Flood Hazard* is the land in the floodplain within a community
54 subject to a one percent or greater chance of flooding in any given year.

55
56 *Base Flood* means the flood having a one-percent chance of being equaled or
57 exceeded in any given year.

58
59 *Base Flood Elevation* means the elevation of the surface of the water during a one
60 percent annual chance flood event.

61
62 *Basement* means any area of the structure ~~building~~ having its flood subgrade
63 (below ground level) on all sides.

64
65 *Building*. See *structure*.

66
67 *Chief Executive Officer or Chief Elected Official* means the City Administrator the
68 official of the community who is charged with the authority to implement and administer
69 laws, ordinances, and regulations for that community.

70
71 *Community* means any State or area or political subdivision thereof, which has
72 authority to adopt and enforce floodplain management regulations for the areas within its
73 jurisdiction.

74
75 *Development* means any human-caused ~~manmade~~ change to improved or
76 unimproved real estate, including but not limited to buildings or other structures, levees,
77 levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations,
78 or storage of equipment or materials.

79
80 *Elevated Building* means, for insurance purposes, a non-basement building which
81 has its lowest elevated floor raised above ground level by foundation walls, shear walls,
82 posts, piers, pilings, or columns.

83
84 *Eligible Community or Participating Community* means a community for which the
85 administrator has authorized the sale of flood insurance under the national flood
86 insurance program (NFIP).

87
88 *Existing Construction* means for the purposes of determining rates, structures for
89 which the start of construction commenced before the effective date of the FIRM or before
90 January 1, 1975, for FIRMs effective before that date. The term "existing construction"
91 may also be referred to as "existing structures."

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

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; ~~and/or~~
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

Flood Boundary and Floodway Map (FBFM) means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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

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

Flood Elevation Study means an examination, evaluation and determination of flood hazards.

Flood Fring" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood insurance rate map (FIRM) means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or Flood Prone Area means any land area susceptible to being inundated by water from any source. (See flooding.)

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term "floodplain management regulations" describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

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

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

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

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

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

188
189 *Highest Adjacent Grade* means the highest natural elevation of the ground surface
190 prior to construction next to the proposed walls of a structure.

191
192 *Historic Structure* means any structure that is:

193
194 (1) Listed individually in the National Register of Historic Places (a listing
195 maintained by the Department of Interior) or preliminary determined by the
196 Secretary of the Interior as meeting the requirements for individual listing on
197 the National Register;

198
199 (2) Certified or preliminary determined by the Secretary of the Interior as
200 contributing to the historical significance of a registered historic district or a
201 district preliminary determined by the Secretary to qualify as a registered
202 historic district;

203
204 (3) Individually listed on a state inventory of historic places in states with historic
205 preservation programs which have been approved by the Secretary of the
206 Interior; or

207
208 (4) Individually listed on a local inventory of historic places in communities with
209 preservation programs that have been certified either:

210
211 a. By an approved state program as determined by the Secretary of the
212 Interior; or

213
214 b. Directly by the Secretary of the Interior in states without approved programs.

215
216 *Levee* means a manmade structure, usually an earthen embankment, designed
217 and constructed in accordance with sound engineering practices to contain, control, or
218 divert the flow of water so as to provide protection from temporary flooding.

219
220 *Levee System* means a flood protection system which consists of a levee or levees
221 and associated structures, such as closure, and drainage devices that are constructed
222 and operated in accordance with sound engineering practices.

223
224 *Lowest Floor* means the lowest floor of the lowest enclosed area (including
225 basement). An unfinished flood-resistant enclosure, useable solely for parking of vehicles,
226 building access, or storage, in an area other than a basement area, is not considered a
227 building's lowest floor, provided that such enclosure is not built so as to render the
228 structure in violation of the applicable floodproofing design requirements of this chapter.

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

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

Map means the flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

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

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

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

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

NFIP means the National Flood Insurance Program (NFIP).

Numbered A Zone means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.

One Percent Annual Chance Flood see "base flood."

Participating community also known as an "eligible community," means a community in which the administrator has authorized the sale of flood insurance.

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

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.

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

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

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

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

Remedy a Violation means to bring a structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred.

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

321
322 *Special Flood Hazard Area.* See area of special flood hazard.
323

324 *Special Hazard Area* means an area having special flood hazards and shown on
325 a FHBM or FIRM as zones (unnumbered or numbered) A, AO, A1-30, AE, or AH.
326

327 *Start of Construction* includes substantial improvements, and means the date the
328 building permit was issued, provided the actual start of construction, repair,
329 reconstruction, rehabilitation, addition placement, or other improvements were within 180
330 days of the permit date. The actual start means either the first placement or permanent
331 construction of a structure on a site, such as the pouring of slabs or footings, the
332 installation of piles, the construction of columns, any work beyond the stage of excavation,
333 or the placement of a manufactured home on a foundation. Permanent construction does
334 not include land preparation, such as clearing, grading and filling, the installation of streets
335 and/or walkways, excavation for a basement, footings, piers, foundations, the erection of
336 temporary forms, nor installation on the property of accessory building, such as garages
337 or sheds not occupied as dwelling units or not part of the main structure. For a substantial
338 improvement, the actual start of construction means the first alteration of any wall, ceiling,
339 floor, or other structural part of a building, whether or not that alteration affects the external
340 dimensions of the building.
341

342 *State Coordinating Agency* means that agency of the state government, or other
343 office designated by the governor of the state or by state statute at the request of the
344 administrator to assist in the implementation of the national flood insurance program
345 (NFIP) in that state.
346

347 *Structure* means, for floodplain management purposes, a walled and roofed
348 building, including a gas or liquid storage tank that is principally above ground, as well as
349 a manufactured home. The term "structure" for insurance purposes, means a walled and
350 roofed building, other than a gas or liquid storage tank, that is principally above ground
351 and affixed to a permanent site, as well as a manufactured home on a permanent
352 foundation. For the latter purpose, the term includes a building while in the course of
353 construction, alteration or repair, but does not include building materials or supplies
354 intended for use in such construction, alternation or repair, unless such materials or
355 supplies are within an enclosed building on the premises.
356

357 Substantial damage means damage to any origin sustained by a structure whereby
358 the cost of restoring the structure to its before damaged ~~pre-damaged~~ condition would
359 equal or exceed 50 percent of the market value of the structure before the damage
360 occurred. The term includes Repetitive Loss buildings (see definition).
361

362 For the purpose of this definition, "repair" is considered to occur when the first repair or
363 reconstruction of any wall, ceiling, floor, or other structural part of the building
364 commences.
365

366 The term does not apply to:

a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or

b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantial Improvement means any combination of reconstruction, alteration, or improvement to a building, taking place for a 10-year period, in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or

b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

~~(1) The term "substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement.~~

~~(2) The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed.~~

~~(3) The term "substantial improvement" does not, however, include either:~~

~~a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~

~~b. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.~~

413 Substantially Improved Existing Manufactured Home Parks Or Subdivisions is
414 where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and
415 pads equals or exceeds 50 percent of the value of the streets, utilities and pads before
416 the repair, reconstruction or improvement commenced.

417
418 Unnumbered A Zone means a special flood hazard area shown on either a flood
419 hazard boundary map or flood insurance rate map where the base flood elevation is not
420 determined.

421
422 *Variance* means a grant of relief by the community from the terms of a floodplain
423 management regulation. Flood insurance requirements remain in place for any varied use
424 or structure and cannot be varied by the community.

425
426 *Violation* means the failure of a structure or other development to be fully compliant
427 with the community's floodplain management regulations. A structure or other
428 development without the elevation certificate, other certifications, or other evidence of
429 compliance required by this chapter is presumed to be in violation until such time as that
430 documentation is provided.

431
432 Water Surface Elevation means the height, in relation to the National Geodetic
433 Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various
434 magnitudes and frequencies in the floodplain.

435
436 Sec. 107-2. Penalties for violation.

437
438 (a) Violation of the provisions of this chapter or failure to comply with any of its
439 requirements (including violations of conditions and safeguards established in
440 connection with granting of variances) shall constitute a municipal ordinance violation
441 misdemeanor. Any person, firm, corporation, or other entity that violates the provisions
442 of this Chapter or fails to comply with any of its requirements shall, upon conviction
443 thereof, be fined not more than authorized by applicable state statute or section 1-9
444 of the Nixa City Code, and in addition, and as approved by the municipal judge, shall
445 pay all costs and expenses involved in the case incurred by the City. Each day such
446 violation continues shall be considered a separate offense.

447
448 (b) A structure or other development without a floodplain development permit or other
449 evidence of compliance is presumed to be in violation of the provisions of this Chapter
450 until such documentation is provided.

451
452 (c) The imposition of fines or penalties for any violation for non-compliance with the
453 provisions of this Chapter shall not excuse the violation or noncompliance or allow it
454 to continue. All such violations or noncompliant actions shall be remedied within an
455 established and reasonable time.

456
457 (d) ~~(b)~~ Nothing herein contained shall prevent the city or other appropriate authority from
458 taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 107-3. Statutory authorization.

The legislature of the State of Missouri ~~state~~ has, in RSMo. 89.020 ~~the Revised Statutes of the State of Missouri~~, delegated the responsibility to local governmental units to adopt floodplain management regulations designated to protect the health, safety, and general welfare.

Sec. 107-4. Findings of fact.

(a) *Flood losses resulting from periodic inundation.* The special flood hazard areas of the city are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

(b) *General causes of the flood losses.* These flood losses are caused by:

(1) The cumulative effect of obstructions in any designated floodway causing increases in flood heights and velocities; and

(2) The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

(c) *Methods used to analyze flood hazards.* The Flood Insurance Study (FIS) that is the basis of this Chapter uses a standard engineering method of analyzing flood hazards, which consists of a series of interrelated steps.

(1) Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Chapter is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this Chapter. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any given year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for Christian County, dated November 2, 2023, as amended, and any future revisions thereto.

(2) Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(3) Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

(4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

(5) Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

Sec. 107-5. Statement of purpose.

It is the purpose of this chapter:

- (1) To promote the public health, safety, and general welfare; to minimize those losses described in section 107-4;
- (2) To establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22 (a)(3); and
- (3) To meet the requirements of 44 CFR 60.3(b) by applying the provisions of this chapter to:
 - a. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
 - b. Requires uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
 - c. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

Sec. 107-6. Lands to which this chapter applies.

- (a) This chapter shall apply to all lands within the jurisdiction of the city identified as numbered and unnumbered A zones and AE zones, on the flood insurance rate map (FIRM) panel numbers 29043C0058D, 29043C0059D, 29043C0062D, 29043C0064D, 29043C0066D, 29043C0067D, 29043C0068D, 29043C0069D dated November 2, 2023 as amended for Christian County dated December 17, 2010, on panel numbers 29043C0055CC, 29043C0060C, 29043C0065C, and 29043C0070C as amended, and any future revisions thereto.
- (b) In all areas covered by this chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the floodplain administrator ~~city council or its duly designated representative~~ under such safeguards and restrictions as the city council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in article III of chapter 101 of the Nixa City Code ~~this subpart~~.

550
551 Sec. 107-7. Compliance.
552

553 No development located within the special flood hazard areas of this community
554 shall be located, extended, converted, or structurally altered without full compliance with
555 the terms of this chapter and other applicable regulations.
556

557 Sec. 107-8. Abrogation and greater restrictions.
558

559 It is not intended by this chapter to repeal, abrogate, or impair any existing
560 easements, covenants, or deed restrictions. ~~However, where~~ Where this Chapter
561 imposes greater restrictions, the provisions of this chapter shall prevail over other
562 applicable codes, ordinances, or regulations of the City. ~~All other ordinances inconsistent~~
563 ~~with this chapter are hereby repealed to the extent of the inconsistency only.~~
564

565 Sec. 107-9. Interpretation.
566

567 In their interpretation and application, the provisions of this chapter shall be held
568 to be minimum requirements, shall be liberally construed in favor of the City governing
569 ~~body~~, and shall not be deemed a limitation or repeal of any other power granted by state
570 statutes to the City.
571

572 Sec. 107-10. Warning and disclaimer of liability.
573

574 The degree of flood protection required by this chapter is considered reasonable
575 for regulatory purposes and is based on engineering and scientific methods of study.
576 Larger floods may occur on rare occasions, or the flood heights may be increased by
577 human-caused ~~manmade~~ or natural causes, such as ice jams and bridge openings
578 restricted by debris. This chapter does not imply that areas outside the floodway and flood
579 fringe ~~unnumbered A-zones~~ or land uses permitted within such areas will be free from
580 flooding or flood damage. This chapter shall not create a liability on the part of the city,
581 any officer or employee thereof, for any flood damages that may result from reliance on
582 this chapter or any administrative decision lawfully made thereunder.
583

584 ARTICLE II. ADMINISTRATION AND ENFORCEMENT
585586 DIVISION 1. GENERALLY
587588 Sec. 107-39. Amendments.
589

590 The regulations, restrictions, and boundaries set forth in this chapter may from time
591 to time be amended, supplemented, changed, or repealed to reflect any and all changes
592 in the National Flood Disaster Protection Act of 1973, ~~provided, however, that no such~~
593 ~~action may be taken until after a public hearing in relation thereto, at which parties of~~
594 ~~interest and citizens shall have an opportunity to be heard. Notice of the time and place~~
595 ~~of such hearing shall be published in a newspaper of general circulation in the city. At~~

~~least 20 days shall elapse between the date of this publication and the public hearing. A~~
copy of such amendments will be provided to the Region VII office of the Federal
Emergency Management Agency (FEMA). The regulations of this chapter are in
compliance with the National Flood Insurance Program (NFIP) regulations.

Sec. 107-40. Floodplain administrator.

The City Administrator, or their designee, city planner is hereby designated as the
floodplain administrator under this chapter. The floodplain administrator is hereby
appointed to administer and implement the provisions of this chapter. Should the City
Administrator delegate the appointment made herein, such delegation shall be in writing
and placed on file with the City Clerk for public inspection.

Sec. 107-41. Duties and responsibilities of floodplain administrator.

Duties of the floodplain administrator ~~city planner~~ shall include, but not be limited to:

- (1) Review of all applications for floodplain development permits to ensure that sites are
reasonably safe from flooding and that the floodplain development permit
requirements of this chapter have been satisfied;
- (2) Review of all applications for floodplain development permits for proposed
development to assure that all necessary permits have been obtained from federal,
state, or local governmental agencies from which prior approval is required by federal,
state, or local law;
- (3) Review all subdivision proposals and other proposed new development, including
manufactured home parks or subdivisions, to determine whether such proposals will
be reasonably safe from flooding;
- (4) Issue floodplain development permits for all approved applications;
- (5) Notify adjacent communities and the state emergency management agency prior to
any alteration or relocation of a watercourse, and submit evidence of such notification
to the Federal Emergency Management Agency (FEMA);
- (6) Ensure that the flood carrying capacity is not diminished and shall be maintained
within the altered or relocated portion of any watercourse ~~maintenance is provided~~
~~within the altered or relocated portion of any watercourse so that the flood-carrying~~
~~capacity is not diminished; and~~
- (7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of
the lowest floor, including basement, of all new or substantially improved structures;
- (8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that
the new or substantially improved non-residential structures have been floodproofed;

~~(9) When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a Missouri registered professional engineer or architect.~~

~~(7) Where base flood elevation from other sources is utilized within unnumbered A zones:~~

~~a. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest flood (including basement) of all new or substantially improved structures;~~

~~b. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved nonresidential structures have been floodproofed; and~~

~~c. When floodproofing techniques are utilized for a particular nonresidential structure, require certification from a registered professional engineer or architect.~~

Sec. 107-42. Floodplain development permit.

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in section 107-6. No person, firm, corporation or unit of government shall initiate any development of substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

Sec. 107-43. Application for floodplain development permit.

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

(1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure building or work;

(2) Identify and describe the work to be covered by the floodplain development permit;

(3) Indicate the use of occupancy for which the proposed work is intended;

(4) Indicate the fair market ~~assessed~~ value of the structure and the fair market value of the improvement;

(5) Specify whether the development is located in a designated flood fringe or floodway;

(6)(5) Identify the existing base flood elevation and the elevation of the proposed development;

(7)(6) Give such other information as reasonably may be required by the floodplain administrator ~~city planner~~;

(8)(7) Be accompanied by plans and specifications for proposed construction; and

(9)(8) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

DIVISION 2. VARIANCE AND APPEALS

Sec. 107-75. Establishment of appeal board.

The Board of Adjustment ~~city council~~ shall hear and decide appeals and requests for variances from the floodplain management requirements of this chapter.

Sec. 107-76. Responsibility of appeal board.

(a) Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the floodplain administrator ~~city planner~~, the applicant may apply for such floodplain development permit or variance directly to the appeal board, as defined in section 107-75.

(b) The appeal board ~~city council~~ shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the floodplain administrator ~~city planner~~ in the enforcement or administration of this chapter.

Sec. 107-77. Floodplain management variance criteria.

In passing upon such applications for variances, the appeal board ~~city council~~ shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this chapter, and the following criteria:

(1) The danger to life and property due to flood damage;

(2) The danger that materials may be swept onto other lands to the injury of others;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

- 734
735 (6) The availability of alternative locations, not subject to flood damage, for the proposed
736 use;
737
738 (7) The compatibility of the proposed use with existing and anticipated development;
739
740 (8) The relationship of the proposed use to the comprehensive plan and floodplain
741 management program for that area;
742
743 (9) The safety of access to the property in times of flood for ordinary and emergency
744 vehicles;
745
746 (10) The expected heights, velocity, duration, rate of rise and sediment transport of the
747 floodwaters, if applicable, expected at the site; and
748
749 (11) The costs of providing governmental services during and after flood conditions
750 including maintenance and repair of public utilities and facilities such as sewer, gas,
751 electrical; and water systems, streets, and bridges.
752

753 Sec. 107-78. Conditions for approving floodplain management variances.
754

- 755 (a) Generally, variances may be issued for new construction and substantial
756 improvements to be erected on a lot of one-half acre or less in size contiguous to and
757 surrounded by lots with existing structures constructed below the base flood level,
758 providing subsections (b) through (f) of this section have been fully considered. As the
759 lot size increases beyond one-half acre, the technical justification required for issuing
760 the variance increases.
761
762 (b) Variances may be issued for the reconstruction, rehabilitation, or restoration of
763 structures listed on the National Register of Historic Places, the state inventory of
764 historic places, or local inventory of historic places upon determination provided the
765 proposed activity will not preclude the structure's continued historic designation and
766 the variance is the minimum necessary to preserve the historic character and design
767 of the structure.
768
769 (c) Variances shall not be issued within any designated floodway if any increase in flood
770 levels during the base flood discharge would result.
771
772 (d) Variances shall only be issued upon a determination that the variance is the minimum
773 necessary, considering the flood hazard, to afford relief.
774
775 (e) Variances shall only be issued upon:
776
777 (1) A showing of good and sufficient cause;
778

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(f) A community shall notify the applicant in writing over the signature of a community official that:

(1) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.

(e) The floodplain administrator shall maintain records of all variance actions. The appeal board shall provides justification for the issuance of a variance.

(f) Variance may be issued for new construction and substantial improvements and for the development necessary for the conduct of a functionally dependent use provided that the criteria of this section is met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 107-79. Conditions for approving variances for accessory structures.

(a) Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances.

(b) Variances granted shall meet the following conditions as well as those criteria and conditions set forth in sections 107-77 and 107-78.

(c) In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed:

(1) Use of the accessory structures must be solely for parking and limited storage purposes in any special flood hazard area zone A-only as identified on the community's flood insurance rate map (FIRM).

(2) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior

and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with section 107-102(c)(2).

(3) The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with section 107-102(c)(1). All of the building's structural components must be capable of resisting specific flood-related forces, including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

(4) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with section 107-102(c)(4).

(5) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with section 107-103(a)(3).

(6) The accessory structures must comply with the floodplain management floodway encroachment provision of section 107-103(b)(2). No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

(7) Equipment, machinery, or other contents must be protected from any flood damage.

(8) No disaster relief assistance under any program administered by a federal agency shall be paid for any repair or restoration costs of the accessory structures.

~~(9) A community shall notify the applicant in writing over the signature of a community official that:~~

~~a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and~~

~~b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.~~

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

Sec. 107-80. Further appeals.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Christian County Circuit Court as provided in RSMo 89.110.

ARTICLE III. FLOOD HAZARD REDUCTION.

Sec. 107-102. General standards.

(a) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A ~~zone~~ zones and AE zones, unless the conditions of this section are satisfied.

(b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance (100-year) flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this chapter. If flood insurance study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.

(c) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zones or AE zones on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

~~(d)~~(e) All new construction, subdivision proposals, substantial improvements, prefabricated structures ~~buildings~~, placement of manufactured homes, and other developments shall require:

(1) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Construction with materials resistant to flood damage;

(3) Utilization of methods and practices that minimize flood damages;

(4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and

discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

(6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to ensure that:

a. All such proposals are consistent with the need to minimize flood damage;

b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

c. Adequate drainage is provided so as to reduce exposure to flood hazards; and

d. All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.

~~(e)(d)~~ Storage, material and equipment.

(1) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

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

(e) Accessory structures. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided:

(1) There is no human habitation or occupancy of the structure;

(2) The structure is of single-wall design;

(3) The accessory structure meets the following floodplain management requirements; ~~A variance has been granted from the standard floodplain management requirements of this chapter;~~ and

(4) A floodplain development permit has been issued.

Wet-floodproofing is only required for small low-cost structures.

(f) Critical facilities.

(1) All new or substantially improved critical nonresidential facilities including, but not limited to, governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the 500-year flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in the National Flood Insurance Program (NFIP) regulations section 107-41(7)c.

(2) All critical facilities shall have access routes that are above the elevation of the 500-year flood.

(3) No critical facilities shall be constructed in any designated floodway.

(g) *Nonconforming use.* A structure, or the use of a structure or premises that was lawful before the passage of an amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

(1) If such structure, use or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this chapter.

(2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration of a structure listed on the National Register of Historic Places, the state inventory of historic places, or local inventory of historic places upon determination.

Sec. 107-103. Specific standards.

(a) In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data has been provided, as set forth in ~~of special flood hazard, once base flood elevation data is obtained, as set forth in~~ section 107-102(b), the following provisions are required:

(1) Residential construction. New construction or substantial improvement of any residential building, including manufactured homes, shall have the lowest floor, including basement, elevated to or one foot above base flood level. The elevation of the lowest floor shall be certified by a Missouri licensed land surveyor, engineer, or architect.

(2) Nonresidential construction. New construction or substantial improvement of any commercial, industrial, or other nonresidential building (including manufactured homes) shall have the lowest floor, including basement, elevated to or one foot above the base flood level, or together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Missouri registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in section 107-41(7)c. The FEMA, Region VII office recommends elevating to one foot above the base flood elevation.

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

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

(b) Floodways. Floodways pose an extremely hazardous are due to the velocity of flood waters that carry debris and potential projectiles. In all areas of special flood hazard, once floodway data is obtained, as set forth in this chapter ~~section 107-102(b)~~, the following provisions are required:

(1) The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one foot at any point; ~~and~~

(2) Encroachments ~~The community shall prohibit any encroachments~~, including fill, new construction, substantial improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any

increase in flood levels within the community during the occurrence of the base flood discharge;

(3) Encroachments may be permitted within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the floodplain administrator applies for a conditional FIRM and Floodway revisions, fulfills the requirements of such revisions as established under the provisions of 44 CFR § 65.12, and receives the approval of FEMA.

(4) If the requirements of section 107-103(b)(2) are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter.

(5) In unnumbered A zones, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in section 107-102(b).

Sec. 107-104. Manufactured homes.

(a) All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones, of the community's FIRM ~~special flood hazard areas~~ shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(b) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones, on the community's FIRM sites:

(1) Outside of a manufactured home park or subdivision;

(2) In a new manufactured home park or subdivision;

(3) In an expansion to an existing manufactured home park or subdivision; or

(4) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood; shall

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a Missouri licensed land surveyor, engineer, or architect.

(c) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all ~~with~~ unnumbered and

1100 numbered A zones and AE zones, on the community's FIRM, that are not subject to
1101 the provisions of subsection (b) of this section, be elevated so that either:

1102
1103 (1) The lowest floor of the manufactured home is at or one foot* above the base flood
1104 level; or

1105
1106 (2) The manufactured home chassis is supported by reinforced piers or other
1107 foundation elements of at least equivalent strength that are no less than 36 inches
1108 in height above grade and is securely attached to an adequately anchored
1109 foundation system to resist floatation, collapse, and lateral movement.

1110
1111 Sec. 107-105. Recreational vehicles.

1112
1113 (a) Recreational vehicles placed on sites within all unnumbered and numbered A zones
1114 and AE zones on the community's FIRM are required to either:

1115
1116 (1) Be on the site for fewer than 180 consecutive days, and be fully licensed and ready
1117 for highway use; or

1118
1119 (2) Meet the permitting, elevating, and the anchoring requirements for manufactured
1120 homes of this chapter.

1121
1122 (b) A recreational vehicle is ready for highway use if it is on its wheels or jacking system,
1123 is attached to the site only by quick-disconnect type utilities and security devices and
1124 has no permanently attached additions.

1125
1126 **SECTION 2:** Savings Clause. Nothing in this Ordinance shall be construed to
1127 affect any suit or proceeding now pending in any court or any rights acquired, or liability
1128 incurred nor any cause or causes of action occurred or existing, under any act or
1129 ordinance repealed hereby.

1130
1131 **SECTION 3:** Severability Clause. If any section, subsection, sentence, clause, or
1132 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
1133 the validity of the remaining portions of this Ordinance. The Council hereby declares that
1134 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
1135 phrase thereof, irrespective of the fact that any one or more sections, subsections,
1136 sentences, clauses, or phrases be declared invalid.

1137
1138 **SECTION 4:** This Ordinance shall be in full force and effect from and after its final
1139 passage by the City Council and after its approval by the Mayor, subject to the provisions
1140 of section 3.11(g) of the City Charter.

ADOPTED BY THE COUNCIL THIS ____ DAY OF _____, 2023.

ATTEST:

PRESIDING OFFICER

CITY CLERK

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2023.

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY