

- (c) An application for a permit for a well shall be granted if the city engineer finds that the proposed means of diversion and construction are adequate. If the city engineer finds that to grant the application would not be in city's water interest, or would violate any city, state or federal rules or regulations, then he may deny the application subject to review at the next meeting of the city council. If the city engineer shall find that the proposed means of diversion or construction are inadequate, or if the application is otherwise defective, he may return the application for correction. If such correction is not made within ninety (90) days, the city engineer may cancel the application. The city engineer shall have the power to revoke any permit granted if he should determine that subsequent to drilling, violations of city, state or federal rules or regulations have occurred.
- (d) In the event water is pumped for domestic purposes, the property owner shall, at his own expense, be permanently disconnected from the city's water system.
- (e) Any resumption of city water services shall be at the sole expense of the property owner.
- (f) Any violation of this ordinance shall be deemed a misdemeanor punishable by no more than ninety (90) days in jail and/or the maximum fine allowed by law, together with full restitution to the city and/or property owner for damaged property.
- (g) This ordinance shall not apply to, and there is specifically exempted from the provisions hereof, any well that was in existence and operating at the time of passage of this ordinance.

ARTICLE X. FLOOD DAMAGE PREVENTION

*part of  
City Code  
(Kemmerer)*

SECTION 23-61. STATUTORY AUTHORIZATION.

The legislature of the State of Wyoming has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council of the City of Kemmerer, Wyoming does ordain as follows:

SECTION 23-62. FINDING OF FACT.

- (a) The flood hazard areas of the City of Kemmerer are subject to periodic 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.

*Date passed*

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- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other area. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

#### SECTION 23-63. STATE OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### SECTION 23-64. METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood water;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood water or which may increase flood hazards in other areas.

#### SECTION 23-65. DEFINITIONS.

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

Appeal means a request for a review of the Building Inspector's interpretation of any provision of this ordinance or a request for a variance.

Area of Special Flood Hazard means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood means the flood having a one percent chance of being equalled or exceeded in any given year.

Development means any man-made 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 located within the area of special flood hazard.

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

- (a) The overflow of inland or tidal waters and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency that includes flood, profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

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.

Lowest Floor means 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 this ordinance.

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

New Construction means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means 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 of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building or mobile home that is principally above ground.

Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) before the improvement or repair is started, or
- (b) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur 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 structure. The term does not, however, include either:

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

#### SECTION 23-66. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Kemmerer.

#### SECTION 23-67. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The area of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Kemmerer", dated February, 1978 with an accompanying Flood Insurance Rate Maps is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Kemmerer City Hall.

#### SECTION 23-68. COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### SECTION 23-69. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and,
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

**SECTION 23-70. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Kemmerer, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

**SECTION 23-71. ESTABLISHMENT OF DEVELOPMENT PERMIT.**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 23-82. Application for a Development Permit shall be made on forms furnished by the City of Kemmerer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

- (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 23-89 *SPECIFIC STANDARDS NONRESIDENTIAL CONSTRUCTION*; and,
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**SECTION 23-72. DESIGNATION OF THE BUILDING INSPECTOR.**

The Building Inspector is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

**SECTION 23-73. DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR.**

Duties of the Building Inspector shall include, but not limited to:

### Permit Review

- (a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (b) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 23-89 (Floodways) (1) are met.

### Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 23-82, *BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD*, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation data and floodway available from a federal, state or other source, in order to administer Sections 23-89, *SPECIFIC STANDARDS, Residential Construction*, and *SPECIFIC STANDARDS, Nonresidential Construction*.

### Information to be Obtained and Maintained

- (a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (b) For all new or substantially improved floodproofed structures:
  - (1) verify and record the actual elevation (in relation to mean sea level)
  - (2) maintain the floodproofing certifications required in Section 23-86 (3)
- (c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

### Alteration of Watercourses

- (a) Notify adjacent communities and the Wyoming Emergency Management Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

### Interpretation of FIRM Boundaries

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 23-88 *VARIANCE PROCEDURE*.

### VARIANCE PROCEDURE:

#### (a) Appeal Board

- (1) The Zoning Board as established by the City of Kemmerer shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Zoning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the Zoning Board, or any taxpayer, may appeal such decision to the City Council and then to the Third Judicial Court [as provided by State of Wyoming statutes].
- (4) In passing upon such applications, the Zoning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - (i) the danger that materials may be swept onto other lands to the injury of others;
  - (ii) the danger to life and property due to flooding or erosion damage;
  - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) the importance of the services provided by the proposed facility to the community;
  - (v) the necessity to the facility of a waterfront location, where applicable;
  - (vi) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;



- (vii) the compatibility of the proposed use with existing and anticipated development;
  - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 23-88 *VARIANCE PROCEDURE* (4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (6) Upon consideration of the factors of Section 23-88 *VARIANCE PROCEDURE* (4) and the purposes of this ordinance, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) The Building Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(b) Conditions for Variances

- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (2) Variances shall not be issued within any designation floodway if any increase in flood levels during the base flood discharge would result.

- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued upon:
  - (i) a showing of good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (iii) a determination that failure to grant the 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 as identified in Section 23-86, or conflict with existing local laws or ordinances.
- (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation.

## SECTION 23-74. PROVISIONS FOR FLOOD HAZARD REDUCTION.

### GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

(a) Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.
- (2) All manufactured homes must be elevated and anchored to resist floatation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirement for resisting wind forces. Specific requirements may be:
  - (i) over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

- (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points. with manufactured homes less than 50 feet long requiring four additional ties per side;
- (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (iv) any additions to the manufactured home be similarly anchored.

(b) Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Utilities

- (1) All new and replacement water supply system shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) Subdivision Proposals

- (1) All subdivisions proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

### SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 23-82 *BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD* or Section 23-88, *Use of Other Base Flood Data*, the following provisions are required:

(a) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(b) Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:

- (1) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 23-88, *INFORMATION TO BE OBTAINED AND MAINTAINED* (2).

(c) Manufactured Homes

- (1) Manufactured homes shall be anchored in accordance with Section 23-89 (2).
- (2) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured

home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system.

### FLOODWAYS

Located within areas of special flood hazard established in Section 23-82 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development including manufactured homes, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If section 23-89 *FLOODWAYS (1)* is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 23-89 *PROVISIONS FOR FLOOD HAZARD REDUCTION*.