

TITLE XV: LAND USAGE

Chapter

**150. BUILDING REGULATIONS; BUILDING
CONSTRUCTION**

151. ZONING

CHAPTER 150: BUILDING REGULATIONS; BUILDING CONSTRUCTION

Section

Building Code

150.01 Building regulations

150.02 Enforcement

Unsafe Building Regulations

150.15 Unsafe building law

150.16 State law adopted by reference

150.17 Public nuisances

150.18 Building Commissioner

150.19 Compliance requirements

150.20 Definition

BUILDING CODE

§ 150.01 BUILDING REGULATIONS.

All building regulations for the town shall be those documents, codes, and rules and regulations formally adopted by the County Building Department.

(`86 Code, § 7-1)

§ 150.02 ENFORCEMENT.

(A) All building regulations shall be enforced by the appropriate county.

(B) All fees involved shall be those established by the county which shall be paid directly to the county.

(`86 Code, § 7-2)

UNSAFE BUILDING REGULATIONS**§ 150.15 UNSAFE BUILDING LAW.**

Under the provisions of I.C. 36-7-9, there is established in the town an Unsafe Building Law. (⁸⁶ Code, § 7-27) (Ord. 84-3, passed 1-1-85)

§ 150.16 STATE LAW ADOPTED BY REFERENCE.

I.C. 36-7-9-1 through 36-7-9-28 is adopted by reference as the Town Unsafe Building Law. All proceedings within the town for the inspection, repair, and removal of unsafe buildings shall be governed by the law and the provisions of this subchapter. In the event the provisions of this subchapter conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(⁸⁶ Code, § 7-28) (Ord. 84-3, passed 1-1-85)

§ 150.17 PUBLIC NUISANCES.

All buildings or portions thereof within the town which are determined after inspection by the County Building Commissioner to be unsafe as defined in this subchapter are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in the Town Unsafe Building Law.

(⁸⁶ Code, § 7-29) (Ord. 84-3, passed 1-1-85)

§ 150.18 BUILDING COMMISSIONER.

The County Building Commissioner, hereinafter referred to as "Building Commissioner," shall be authorized to administer and to proceed under the provisions of the law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(⁸⁶ Code, § 7-30) (Ord. 84-3, passed 1-1-85)

§ 150.19 COMPLIANCE REQUIREMENTS.

Wherever in the building regulations of the town or the Town Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, or any other officer of the county, this shall be construed to give the officer only the discretion of

determining whether the rules and standards established by ordinance have been complied with; and the provisions shall not be construed as giving any officer discretionary powers as to what the regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

(`86 Code, § 7-31) (Ord. 84-3, passed 1-1-85)

§ 150.20 DEFINITIONS.

The definition of an “unsafe building,” contained in I.C. 36-7-9-4, is supplemented to provide minimum standards for building condition or maintenance in the town, by adding the following to the definition:

UNSAFE BUILDING. Any building or structure which has any or all of the following conditions or defects shall be deemed to be an ***UNSAFE BUILDING***, provided that the conditions or defects exist to the extent that life, health, property or safety of the public or its occupants are endangered.

(1) Any door, aisle, passageway or other means of exit is not sufficient width or size or is not arranged to provide safe and adequate means of exit in case of fire or panic.

(2) The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose or location.

(3) The building has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose or location.

(4) Any portion, member, or appurtenance of the building is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(5) Any portion of the building or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose or location without exceeding the working stresses permitted for the buildings.

(6) Any portion of the building has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(7) The building or structure, or any portion thereof, because of dilapidation, deterioration or decay, faulty construction, the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting the building, or the deterioration, decay, or inadequacy of its foundation, or any other cause, is likely to partially or completely collapse.

(8) The building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used.

(9) The exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(10) The building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(11) The building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children, or freely accessible to persons for the purpose of committing unlawful acts.

(12) The building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of the county, or of any law or ordinance of the state or county relating to the condition, location or structure of buildings.

(13) The structure, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in an supporting part, member or portion less than 66% of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(14) The building or structure, used or intended to be used for dwelling purposes, because of inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Commissioner to be unsanitary, unfit for human habitation, or in a condition that is likely to cause sickness or disease.

(15) The building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Building Commissioner to be a fire hazard.

(16) Any portion of a building or structure that remains on a site after demolition or destruction, or any building or structure that is abandoned for a period in excess of six months or so, constitutes an attractive nuisance or hazard to the public.
(`86 Code, § 7-32) (Ord. 84-3, passed 1-1-85)

CHAPTER 151: ZONING

Section

- 151.01 Comprehensive master plan
- 151.02 Zoning ordinance
- 151.03 Subdivision ordinance
- 151.04 Zoning map
- 151.05 Amendments
- 151.06 Annexation
- 151.07 Planned unit development
- 151.08 Real estate development fees

§ 151.01 COMPREHENSIVE MASTER PLAN.

The Town Council recognizes the need of the establishment of a comprehensive master plan to assure efficiency and economy in the process of orderly development of the town.

(`86 Code, § 10-1) (Ord. 79-6, passed 7-17-79)

Statutory reference:

Local planning and zoning, see I.C. 36-7-4-100 et seq.

§ 151.02 ZONING ORDINANCE.

(A) The County Zoning Ordinance, Ord. 27-634, is adopted as the zoning ordinance for the town, two copies of which are on file in the Clerk-Treasurer's office and open for public inspection during regular business hours. (Ord. 79-6, passed 7-17-79)

(B) Ord. 90-10, § 1 deleted the following Section to Title 36, Article 7, Chapter 4 - 600 County Zoning Ordinance:

(36-7-4-600) County Zoning Ordinance:

36-7-4-600 Section 2. Definitions. 16 Buildings.

Wakarusa - Land Usage

- 36-7-4-600 Section 2. Definitions. 82 Mobile Home.
- 36-7-4-600 Section 2. Definitions. 84 Mobile Home Park.
- 36-7-4-600 Section 2. Definitions. 83 Mobile Home Subdivision.
- 36-7-4-600 Section 2. Definitions. 120 Structure.

36-7-4-600 Specifications L Flood Hazard Control.
(Ord. 90-10, passed 12-4-90)

(C) Ord. 90-10 added the following Section to Title 36, Article 7, Chapter 4-600 County Zoning Ordinance:

(36-7-4-600) County Zoning Ordinance:

Section 2. Definitions.

12.50 **Base Flood.** See Regulatory Flood.

16.00 **Building.** See Structure.

34.50 **Development.** Any man-made change to improved or unimproved real estate including, but not limited, to:

1. Construction, reconstruction, or placement of a building or any addition to a building valued at more than \$1,000;
2. Installing a mobile home on site, preparing a site for a mobile home or installing a recreational vehicle on site for more than 180 days;
3. Installing utilities, erection of walls and fences, construction of roads;
4. Construction of flood control structures such as levees, dikes, channel improvements, etc.
5. Mining, dredging, filling, grading, excavation, or drilling operations;
6. Construction and/or reconstruction of bridges or culverts;

7. Outside storage of material; or
8. Any other activity that might change the direction, height or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

45.10 Flood Fringe: The area of the flood plain, between the floodway and the boundary of the regulatory flood or the base flood as identified by the Federal Insurance Administration.

45.20 Flood Proofed Building: A non-residential building designed to exclude floodwaters from its interior. All flood-proofing shall be certified by a Registered Professional Engineer to be water tight and capable of resisting the pressures, velocities, impact and uplift forces, hydrostatic pressures, impacts of ice and debris and other factors associated with the regulatory flood. All flood proofing measures are to operate without human intervention.

45.30 Floodplain: The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.

45.40 Flood Protection Grade: The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area.

45.50 Floor or Floodwater: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

45.60 Floodway: The channel of a stream, plus any adjacent floodplain areas, as identified by the Federal Insurance Administration, that must be kept free of encroachment so that the regulatory flood may be carried without substantial increases in flood heights.

78.50 Lowest Floor: The lowest of the following:

1. The basement floor;
2. The garage floor, if the garage is the lowest level of the building;
3. The first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

4. The floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one foot above the enclosed area's floor.

b. Such enclosed space shall be usable for non-residential purposes and building access.

82.00 Mobile Home: A structure, transportable, which 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 “mobile home” does not include a “recreational vehicle.”

83.00 Mobile Home Subdivision (existing and new): Any area of land platted for subdivision with the facilities to include, at a minimum, the utilities, the streets, final site grade, or the concrete pads on which the mobile homes are to be affixed. If construction is completed before the effective date of the floodplain management regulations adopted by the county, it is considered an **existing mobile home park**; all others are to be considered as **new mobile home park**.

83.50 Mobile Home Tie Down: Sufficient anchorage to resist forces up to 4,800 pounds, flotation, collapse or lateral movement of any mobile home, and placement as per manufacturer's specifications.

84.00 Mobile Home Park (existing and new): Any area of land in single ownership upon which two or more mobile homes are placed and the facilities to include, at a minimum, the utilities, the streets, final site grade, or the concrete pads on which the mobile homes are to be affixed. If construction is completed before the effective date of the floodplain management regulations [are] adopted by the County, it is considered an **existing mobile home subdivision**; all others are to be considered as a **new mobile home subdivision**.

103.30 Recreational Vehicle: A vehicle which is 1) built on a single chassis; 2) is 400 square feet or less when measured at the largest horizontal projections; 3) designed to be self-propelled or permanently towable by a light duty truck; and 4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.

103.60 Regulatory Flood: Is designed as the 100-year flood zone on the Federal Insurance Rate Maps. This flood event has a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources. The regulatory flood elevation at any location is as defined in Section 5 of this Ordinance.

107.50 Special Flood Hazard Area: Those lands that are subject to inundation by the regulatory flood.

120.00 Structure: Anything constructed, erected or placed on or principally above ground that is enclosed by walls and a roof and is used to shelter or protect persons, animals, chattel, or property. This shall include gas or liquid storage tanks, mobile homes, or prefabricated or manufactured buildings. The definition also includes recreational vehicles to be installed on a site or at a site for more than 180 days.

121.30 Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

121.60 Substantial Modification: Any alteration, repair, enlargement or extension of an existing building. This term does not, however, include either 1) any project for improvement of a structure to comply with existing health, sanitary or safety code specifications, or 2) any alteration of a structure listed on the National Register of Historic Places or the State Survey of Historic, Archeological and Cultural Sites, Structures, Districts and Objects. (Ord. 90-10, passed 12-4-90)

(D) Ord. 90-10 deleted the following from Title 36, Article 7, Chapter 4-600 (36-7-4-600), County Zoning Ordinance, Article 4, Non-Conforming Use Specifications:

Section 5 Repairs and Alterations. (The title only) (Ord. 90-12, passed 12-4-90)

(E) Ord. 90-10 added the following to Title 36, Article 7, Chapter 4-600 (36-7-4-600), County Zoning Ordinance, Article 4, Non-Conforming Use Specifications:

Section 5 Repairs, Alterations and Additions.

Wakarusa - Land Usage

c. **Residential Additions within the Front Yard Set Back.** At the Zoning Administrator's discretion, an Improvement Location Permit can be issued for additions to the principal residential structure that is non-conforming because of its location in the required front yard(s). This permit can only be issued if the following criteria has been met:

1. The existing yard(s) were created prior to or in conformance with this ordinance and amendments, and
 2. The existing building line is more than 40 feet from the centerline of any road and is not presently within any public right-of-way, and
 3. The proposed addition will be at or behind the building line established by the principal residential structure, and
 4. The square feet of the additions (only that area which sets between the established building line and the required building set back line) is 20% or less of the ground floor area of the principal residential structure, and
 5. The yard(s) in question are not adjacent to a major classified street, federal or state highway, and
 6. A site plan (as prescribed by the Plan Commission) is submitted.
- (Ord. 90-12, passed 12-4-90)

(F) Ord. 90-10 added the following to Title 36, Article 7, Chapter 4-600 (36-7-4-600), County Zoning Ordinance:

ARTICLE 5. ADMINISTRATION.

Section 4. Improvement Location Permit Required within a Flood Hazard Area.

a. No development is permitted in the Special Flood Hazard Area without first obtaining an Improvement Location Permit. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed development does not meet the requirements of Specification L - Flood Hazard Control.

Specification L - Flood Hazard Control

Section 1. Statement of Purpose.

- a. The purpose of this ordinance is to guide development in designated flood hazard area by reducing the potential for the loss of life and property and by reducing health and safety hazards, plus reduce public expenditures for flood protection and relief; and
- b. To lessen the burden on the taxpayer for flood control projects, repairs to flood damaged public facilities and utilities, and flood rescue and relief operations; and
- c. Maintain property values and a stable tax base by minimizing the potential for creating flood damaged areas; and
- d. Make federally subsidized flood insurance available for property in the incorporated area of Wakarusa by fulfilling the requirements of the National Flood Insurance Program.

Section 2. Improvement Location Permit Required within a Special Flood Hazard Area.

- a. No development is permitted in the Special Flood Hazard Area without first obtaining an Improvement Location Permit. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed development does not meet the requirements of this specification.
- b. The application for an Improvement Location Permit shall be accompanied by the following:
 1. A description of the proposed development.
 2. A site development plan drawn to scale showing:
 - a. Existing and proposed structures.
 - b. Existing and proposed land grades.
 - c. Location in relationship to existing roads, streams and property lines.
 - d. All distances (must be dimensioned) between structures, lot lines (property lines), roads, streams, etc.
 3. A legal description of the property site and the existing parcel code number (tax code number).
 4. Elevation of lowest floor (including basement) of all proposed structures at the Flood Protection Grade.

c. The Zoning Administrator shall determine if the structure or the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined; and

1. If the structure is in an identified floodway, the Zoning Administrator shall require the applicant to secure a permit (or statement of release) from the Department of Natural Resources for any construction in a floodway. The Improvement Location Permit can only be released if it is as restrictive or more restrictive than the permit issued by the Indiana Department of Natural Resources; or

2. If the structure is located in an identified floodway fringe, the Zoning Administrator will issue the Improvement Location Permit provided:

a. The provisions contained in Section 4 and 5 of this specification have been met; and,

b. The lowest floor or any new or substantially improved structure shall be at or above the Flood Protection Grade.

3. If the structure is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate). The Zoning Administrator shall require the applicant to secure a permit or letter of recommendation approving the proposed development from the Indiana Department of Natural Resources.

The Improvement Location Permit can only be issued if it is as restrictive or more restrictive than the permit issued by the Indiana Department of Natural Resources.

4. All development other than structural shall require an Improvement Location Permit released as regulated in Section 2 'c' of this specification.

Section 3. Administration of the Flood Insurance Program.

a. The Zoning Administrator is to review all development and subdivision proposals to insure compliance with the intent of the flood insurance program and shall include, but not be limited to, the following duties:

1. Ensure that all development activities within the Special Flood Hazard Areas of the jurisdiction meet the requirements of this ordinance.

2. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.

3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 4 of this ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

4. Maintain a record of the surveyors or engineers certificate of the “as built” elevation of the lowest floor (including the basement) of all new and/or substantially improved buildings and the “as built” flood proofed elevation of all buildings subject to Section 5 of this Specification constructed in the Special Flood Hazard Area. *The surveyor's or engineer's certificate is the responsibility of the home owner to secure.*

5. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.

6. Maintain for public inspection and furnish upon request information on regulatory flood data, Special Flood Hazard Area maps, copies of Indiana Department of Natural Resources permits and letters of recommendation, federal permit documents and “as built” elevation and floodproofing data for all buildings constructed subject to this ordinance.

Section 4. Preventing Increased Damages.

a. No development in the Special Flood Hazard Area shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

b. Within all Special Flood Hazard Area identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided), the following standard shall apply:

The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth of one foot and will not increase flood damages or potential flood damages.

c. Public Health Standards in all Special Flood Hazard Area:

1. No development in the Special Flood Hazard Area shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a storage tank or flood proofed building constructed according to the requirements of Subsection 5 ‘f’ of this ordinance.

2. New and replacement sanitary sewer lines and on-site waste disposal systems as permitted by the Indiana State Board of Health or the local Department of Health.

Section 5. Protecting Structures.

a. In addition to the damage prevention requirements of Section 4, all buildings to be located in the Special Flood Hazard Area shall be protected from flood damage below the Flood Protection Grade.

b. This building protection requirement applies to the following situations:

1. Construction or placement of any new structure valued at more than \$1,000.

2. Structural alterations made to an existing structure that increase the market value of the structure by more than 50% (excluding the value of the land).

3. Reconstruction or repairs made to a damaged structure that are valued at or more than 50% of the market value of the structure (excluding the value of the land) before damage occurred.

4. Installing a mobile home on a site or a new mobile home on an existing site. This ordinance does not apply to returning the existing mobile home to the same site it lawfully occupied before it was removed to avoid flood damage; and

5. Installing a recreational vehicle on a site for more than 180 days.

c. This structure protection requirement may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in Section 4 of this ordinance.

1. A residential or nonresidential structure may be constructed on fill in accordance with the following:

a. The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density and certified by an engineer with approved methods.

b. The fill should extend at least ten feet beyond the foundation of the building before sloping below the Flood Protection Grade.

c. The fill shall be protected against erosion and scour during flooding by vegetative cover, rip-rap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

- e. The lowest floor shall be at or above the Flood Protection Grade.
2. A residential or nonresidential structure may be elevated in accordance with the following:
 - a. The structure or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 1. Walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one foot above the enclosed area's floor.
 2. Any enclosure below the elevated floor is used for nonresidential purposes and building access.
 - b. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.
 - c. All areas below the Flood Protection Grade shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the Flood Protection Grade. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the Flood Protection Grade.
 - d. Mobile homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

The mobile home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the Flood Protection Grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all mobile homes to be placed on a site:

1. Outside a mobile home park or subdivision;
2. In a new mobile home park or subdivision;
3. In an expansion to an existing mobile home park or subdivision; or

4. In an existing mobile home park or subdivision on which a mobile home has incurred “substantial damage” as a result of a flood.

5. In an existing mobile home park or subdivision that has not been substantially damaged by a flood. The mobile home shall be elevated so that the lowest floor of the mobile home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to a foundation system that will resist flotation, collapse and lateral movement.

e. Recreational vehicles placed on a site shall either:

1. Be on site for less than 180 consecutive days; or

2. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick connect type utilities and security devices, and has no permanently attached additions); or

3. Shall meet the requirements for mobile homes in Subsection ‘d’ of this section.

f. A nonresidential building maybe flood proofed to the Flood Protection Grade (in lieu of elevating) if done in accordance with the following:

1. A Registered Professional Engineer shall certify that the building has been designed so that below the Flood Protection Grade, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate or rise, hydrostatic pressures, and impacts from debris or ice.

2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

Section 6. Regulatory Flood Elevation.

a. The flood protection standard in this ordinance is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party is responsible to provide the detailed engineering study need to replace existing data and submit it to the Department of Natural Resources for review and approval.

1. The **regulatory flood elevation** for the Special Flood Hazard Area shall be as delineated as the 100-year flood profiles in the Flood Insurance Study prepared by the Federal Emergency Management Agency.

2. The **regulatory flood elevation** for each Special Flood Hazard Area shall be that elevation delineated on the Flood Insurance Rate Maps.

3. The **regulatory flood elevation** for each of the remaining Special Flood Hazard Area delineated as an “A Zone” on the Flood Insurance Rate Map shall be according to the best data available as provided by the Department of Natural Resources.

Section 7. Variances.

a. The board shall hear requests for variances as permitted by Article 6, Section 7.a.4 from the standards, and conditions:

1. No variance or exception for a residential use within a floodway, subject to Section 4 ‘a’ or ‘b’, may be granted.

2. Any variance or exception granted in a floodway subject to Section 4 ‘a’ or ‘b’ will require a permit from Indiana Department of Natural Resources.

3. Variance or exceptions to the Building Protection Standards of Section 5 may be granted only when a new structure is to be located on a lot of ½ acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

4. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, Districts and Objects.

5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

Section 8. Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the community, Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Section 9. Statutory Authorization.

The Indiana Legislature granted the power to local units of government (I.C. 36-7-4) to control the land use within their jurisdictions in order to accomplish the following. (Ord. 90-10, passed 12-4-90)

(G) Ord. 90-10 does not repeal the original resolution or ordinance adopted to achieve eligibility in the Federal Insurance Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where Ord. 90-10 and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. (Ord. 90-10, passed 12-4-90)
(`86 Code, § 10-3)

§ 151.03 SUBDIVISION ORDINANCE.

(A) The County Subdivision Ordinance, Ord. 27-502, is adopted as the subdivision ordinance for the town, two copies of which are on file in the Clerk-Treasurer's office and open for public inspection during regular business hours. (Ord. 79-6, passed 7-17-79)

(B) Ord. 90-11 deleted the following section from Title 36, Article 7, Chapter 4, Section 4-700 Subdivision Control:

(36-7-4-700) Subdivision Control, Article 4 Administration, Section 4. Flood Plain Regulations:
(Ord. 90-11, passed 12-4-90)

(C) Ord. 90-11 added the following section to Title 36, Article 7, Chapter 4-700 Subdivision Control:

(36-7-4-700) Article 4, Administration

Section 4. Subdivisions in Flood Hazard Areas.

a. The Plan Commission Staff shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined by the Zoning Ordinance.

1. If the staff finds the subdivision is located in a flood hazard area and all proposed lots exceed the required minimum lot area outside of the flood hazard area, the staff will set the proposed subdivision for hearing within days; or,

2. If the staff finds the subdivision is located in a flood hazard area and the proposed lots do not exceed the required minimum lot area outside of the flood hazard area. The applicant shall forward all necessary information to the Indiana Department of Natural Resources for review and comment. The Plan Commission staff will then set the proposed subdivision for a hearing only after the application reflects all comments made by the Indiana Department of Natural Resources.

b. Developers shall place the 100-year flood elevation on all subdivision plats containing lands within a flood hazard area.

c. All owners of manufactured home parks or subdivisions located within the Special Flood Hazard Area identified as Zone A on the community's Flood Hazard Boundary Map or Flood Insurance Rate Map must develop an evacuation plan for those lots and file it with the local Plan Commission. It shall also be filed and approved by the appropriate community emergency management authorities. (⁸⁶ Code, § 10-4) (Ord. 90-11, passed 12-4-90)

§ 151.04 ZONING MAP.

An interim zoning map is adopted setting out the zoning districts for the town. The interim zoning map shall remain in force and effect until the adoption of a comprehensive master plan for zoning for the town, and two copies of the interim zoning map are on file in the Clerk-Treasurer's office and open for public inspection during regular business hours.

(⁸⁶ Code, § 10-5) (Ord. 79-6, passed 7-17-79)

§ 151.05 AMENDMENTS.

All amendments to this chapter shall be in conformance with the provisions of Chapter 174, Acts of 1947, State General Assembly, and all acts amendatory thereto.

(⁸⁶ Code, § 10-6) (Ord. 79-6, passed 7-17-79)

§ 151.06 ANNEXATION.

(A) I.C. 36-4-3 provides for the annexation of territory which is contiguous with the external boundary of the annexing municipality.

(B) The Town Council has determined that it is in the best interests of the town that certain parcels of land which meet the criteria for annexation be annexed as part of the territory of the town.

(C) The Town has adopted a written fiscal plan and definite policy for the extension of services to the territories proposed to be annexed. (Ord. 96-10, passed 10-15-96; Ord. 96-11, passed 10-14-96)

(D) All annexation ordinances properly passed by the Town Council shall be kept on file in the office of the Clerk-Treasurer and available for public inspection during regular business hours.
(`86 Code, § 10-8)

§ 151.07 PLANNED UNIT DEVELOPMENT.

All planned unit development ordinances which amend Ord. 90-4 shall be kept on file in the office of the Clerk-Treasurer and available for public inspection during regular business hours.
(`86 Code, § 10-9)

§ 151.08 REAL ESTATE DEVELOPMENT FEES.

(A) *Minimum fee.* A minimum fee of \$2,000 shall be paid to the Town of Wakarusa upon the submission of an application for any type of development within the town which requires the use of the municipal water and sewer services of the town.

(B) *Services covered.* The purpose of the fee is to cover all out-of-pocket expenses incurred by the town for legal and engineering services with regard to review of the application to determine if the proposed development meets the standards of Resolution 2009-8.

(C) *Additional fees.* After preliminary review of the application the town may require the developer to advance additional funds as additional fees to cover the total amount of the review expenses, including the following:

- (1) Town of Wakarusa administrative fee of \$200;
- (2) Legal fees;
- (3) Technical review and development standard compliance fee;
- (4) Utility drainage standard compliance fee.

(D) *Review procedure.* No application for development shall be acted upon by the town or the Wakarusa Technical Review Committee until the fees required by this section have been paid to the Wakarusa Town Clerk/Treasurer.
(Ord. 2009-2, passed 5-5-09)