

TITLE IV. LAND USE

CHAPTER 400: PLANNING AND ZONING COMMISSION

SECTION 400.010: CREATION OF PLANNING AND ZONING COMMISSION

There is hereby established a Velda City Planning and Zoning Commission consisting of seven (7) members, including the Mayor, a member of the Board of Aldermen selected by the Board, the City's Building Commissioner, and four (4) citizens appointed by the Mayor and approved by the Board. (Ord. No. 57 §1, 12-7-48; Ord. No. 506 §1A, 2-11-98)

SECTION 400.020: PLANNING COMMISSION -- MEMBERSHIP -- TERMS -- VACANCY -- REMOVAL

A. *Citizens.*

1. Members shall serve without compensation and shall serve for a term of four (4) years; provided however, that the first (1st) Commission appointed upon passage of this Section shall be appointed as follows:
 - a. One (1) for a term of four (4) years.
 - b. One (1) for a term of three (3) years.
 - c. One (1) for a term of two (2) years.
 - d. One (1) for a term of one (1) year.
2. Vacancies shall be filled for the unexpired term of a member by appointments as provided in Subsection (A) hereof. The Board may remove any citizen member for cause stated in writing and after public hearing.

- B. The Commission shall elect its Chairman, Vice-Chairman, and Secretary from among its citizen members. Their terms shall be for one (1) year with eligibility for reelection. The Vice-Chairman shall succeed the Chairman if he vacates his office before his term is completed, with the Vice-Chairman to serve the unexpired term of the vacated office. A new

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Vice-Chairman shall be elected at the next regular meeting. (Ord. No. 506 §1(B--C), 2-11-98)

SECTION 400.030: POWERS AND DUTIES OF PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission shall have the powers and duties granted to it as provided for in Chapter 89, RSMo., as amended. (Ord. No. 57 §3, 12-7-48; Ord. No. 506 §2, 2-11-98)

SECTION 400.035: RECORDS

The office of the City Clerk shall be the custodian of all Planning and Zoning Commission records. The Building Commissioner and/or the City staff shall inform the Commission of correspondence relating to business of the Commission and attend to such correspondence. All maps, plans, correspondence, plats and other matter required to be filed shall be kept in the municipal files in accordance with City regulations. (Ord. No. 506 §3, 2-11-98)

SECTION 400.040: APPROVAL OF PLATS

Before any subdivision plat is approved by the Board of Aldermen, it shall first be presented to the Planning and Zoning Commission for study and approval or recommendation. However, any action of such Planning and Zoning Commission shall not be binding upon the Board of Aldermen but shall be deemed advisory only. (Ord. No. 57 §4, 12-7-48)

SECTION 400.050: NOTICE OF PUBLIC MEETING

Before any plan for zoning of the City be submitted by the Planning and Zoning Commission to the Board of Aldermen with its recommendations, the Planning and Zoning Commission shall first hold a public and open meeting of which notice thereof be first given as prescribed by law. (Ord. No. 57 §5, 12-7-48)

SECTION 400.060: ADOPTION OF RULES AND REGULATIONS

The Planning and Zoning Commission may adopt such rules and regulations as are deemed necessary for the transaction of its business. It may also avail itself of such services of engineers and consultants and technicians and others as it may deem necessary at the expense of the City. (Ord. No. 57 §6, 12-7-48)

SECTION 400.070: OTHER DUTIES OF PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission shall have such other powers, duties and privileges as are or may be prescribed by the laws of the State of Missouri or the ordinances of the City. (Ord. No. 57 §7, 12-7-48)

SECTION 400.080: APPLICATION FEE

Any person filing an appeal, application or plan with either the Planning and Zoning Commission of Velda City or the Board of Adjustment of Velda City for the approval of a plat, rezoning of a district or part of a district, obtaining a special use permit, obtaining a variance, or contesting the decision of the Building Commissioner or other official of the City shall provide such written information, plans and documents as deemed necessary by the Planning and Zoning Commission or the Board of Adjustment; and in addition thereto, such a person shall pay a filing fee to the City Clerk in the amount of two hundred fifty dollars (\$250.00) for any matter filed before the Planning and Zoning Commission and one hundred dollars (\$100.00) for any matter filed before the Board of Adjustment. Such fee shall be non-refundable and neither the Planning and Zoning Commission nor the Board of Adjustment shall schedule or hold public hearings or take any action on such person's application until the filing fee is paid in full. (Ord. No. 324 §2, 7-18-79)

CHAPTER 405: ZONING

SECTION 405.010: DISTRICTS

- A. In order to regulate and restrict the location of trades, industries and residences and the location of buildings erected or altered for specific uses, and to regulate and limit the height of buildings hereafter erected or altered, to regulate and determine the area of yards and other open spaces, and to regulate and limit the density of population, Velda City is hereby divided into districts of which there shall be two (2) known as:
 - 1. "A" Residential District.
 - 2. "B" Commercial District.
- B. Velda City is hereby divided into two (2) districts aforesaid and the boundaries of such districts are shown upon the map, which is on file in the office of the City Clerk, being designated as the District Map and said map and all the notations, references and other

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information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said map were all fully described herein; except as hereinafter provided, to-wit:

1. No building shall be erected, converted, reconstructed or structurally altered nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located.
2. No building shall be erected, reconstructed or structurally altered to exceed the height limit herein established for the district in which such building is located.
3. No building shall be erected, reconstructed or structurally altered so as to intrude upon the area required for the front, side and rear yards as herein established.
4. No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Chapter.
5. No building shall hereafter be erected or structurally altered unless located on a lot as herein defined, and in no case shall there be more than one (1) building on one (1) lot except that a private garage may be permitted. (Ord. No. 59 §1, 7-5-49)

SECTION 405.020: "A" RESIDENTIAL DISTRICT

In the "A" Residential District, no building or land shall be used and no building shall be hereafter erected, converted or structurally altered except for single-family residence occupation, which may include one (1) private garage per residential lot.

1. All existing building lines shall be strictly adhered to.
2. The existing regulations pertaining to Building Code shall be complied with.
3. Uses customarily incident to residential occupancy when situated in the same dwelling, including home occupation, such as the office of a physician, surgeon, dentist or lawyer shall be permissible. Provided however, no name plate exceeding one (1) square foot in area shall be permitted, nor shall any illuminated or lighted name plate or sign of any size or description be permitted within said "A" Residential District.
4. No billboard or advertising sign of any size or description shall be permitted in "A" Residential District, except that signs not exceeding three (3) square feet in area pertaining to the leasing or rental of the premises only, shall be permitted.
5. No "For Sale" or "Sold" signs whatsoever shall be displayed, posted or erected in, on or upon any premises within "A" Residential District, within the City.
6. No realty information sign shall be placed on or upon any public right-of-way, street,

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alley or thoroughfare.

7. The City Governing Body shall cause to have notified any realty company or other person or persons whose name or names appear on any sign located upon any premises zoned "A" Residential District, which is in violation of this Chapter. If such sign is not removed within three (3) days after such notice aforesaid, the same shall be removed by an authorized officer of the City and stored for a period of thirty (30) days and may be reclaimed upon payment of two dollars (\$2.00) to cover costs of removing and storing such sign.

If such sign is not claimed by the person or company after the expiration of thirty (30) days, it shall be destroyed. The notice provided for aforementioned shall be by certified mail.

8. All future structures shall conform in height to present existing adjoining buildings or structures in said "A" Residential District. That is to say no two-story residence shall be erected adjacent to a one-story residence, or a one-story residence adjacent to a two-story residence.
9. No commercial enterprise, of any kind or description, except as provided in Subparagraph (3) herein shall be permitted within said "A" Residential District.
10. Lot areas in said "A" Residential District shall not be less than present existing lots, including front and rear yards.
11. No building or structure exceeding two (2) stories in height shall be permitted within said "A" Residential District.
12. The term "*single-family residence occupancy*" as used in this Section, is hereby construed to mean that the occupancy of any single-family residence as provided in "A" Residential District in said Section shall be limited and restricted to a person or persons occupying such premises and living as a single housekeeping unit.
13. No single-family residence in said "A" Residential District shall be permitted to be used nor occupied as a rooming house, boarding house or lodging house, whether meals be furnished or not.
14. No structure or premises in said "A" Residential District shall be permitted to be converted nor altered into apartments, or to create any type of multiple dwelling. (Ord. No. 59 §2, 7-5-49; Ord. No. 124 §1, 5-4-67; Ord. No. 137 §1, 9-26-68)

SECTION 405.030: "B" COMMERCIAL DISTRICT

In the "B" Commercial District, all buildings and lands, except as otherwise provided in this

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Chapter, are restricted to light commercial, being construed to mean stores and shops only, dispensing merchandise at retail only.

1. No industrial, heavy or light, manufacturing, processing or industry of any kind or description shall be permitted within said "B" Commercial District.
2. No funeral home, undertaking establishment or like uses shall be permitted within said "B" Commercial District.
3. No car wash, service station, filling station or car repair facility of any kind shall be permitted within the "B" Commercial District.
4. Structures and buildings erected in said "B" Commercial District may be either one (1) story or two (2) stories in height but in no event shall exceed two (2) stories in height. In buildings and structures of two (2) story height, the second (2nd) story may be occupied as residential quarters or offices in said "B" Commercial District.
5. No tourist court or trailer camps of whatsoever kind or description shall be permitted within the City limits.
6. The erection and construction of any structure, building or dwelling for use or occupancy as a motel, is hereby prohibited; nor shall any existing building, structure or dwelling be altered or converted for occupancy or use as a motel.
7. Multiple dwellings, construed to mean single and double flats, not exceeding four (4) family dwellings, may be permitted within said "B" Commercial District. (Ord. No. 59 §3, 7-5-49; Ord. No. 60 §1, 12-6-49; Ord. No. 87 §1, 11-6-58; Ord. No. 579 §1, 2-9-05)

SECTION 405.040: NON-CONFORMING USES

The lawful use of land existing as of July 5, 1949, although such use does not conform to the provisions hereof, may be continued but if such non-conforming use is discontinued, any future use of said premises shall be in conformity with the provisions of this Chapter. (Ord. No. 59 §4, 7-5-49)

SECTION 405.050: RESTORATION OF DESTROYED BUILDING

Nothing in this Chapter shall be taken to prevent the restoration of a building destroyed to the extent of not more than seventy-five percent (75%) of its reasonable value, by fire, explosion or other casualty or act of God, or public enemy, nor the continued occupancy or use of such building or part thereof which existed at the time of partial destruction. (Ord. No. 59 §5, 7-5-49)

SECTION 405.060: SPECIAL PERMITS

After a public hearing conducted by the Zoning Commission and the reception of a report and recommendation from the Zoning Commission, the Board of Aldermen may in its sole discretion authorize by special permit in any district the location, erection, reconstruction or structural alteration of any of the land, uses or structures otherwise prohibited by this Chapter and under such conditions as may be set forth in the special permit may restrict the nature of the physical structure, extent of special use, hours of operation, access, duration of any other matters determined as necessary. (Ord. No. 324 §3, 7-18-79)

SECTION 405.070: PENALTY

- A. Any person or persons, firm, partnership or corporation who shall violate any of the provisions of this Chapter or fail to comply herewith, or shall violate or fail to comply with any order or regulation made hereunder shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each and every day that such violation continues.
- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions as provided for by law of the State of Missouri. (Ord. No. 59 §8, 7-5-49)

SECTION 405.080: UTILITY FACILITIES PERMITS AND REGULATIONS

- A. *Definitions.* As used in this Section, the following terms shall have the following meanings unless otherwise defined by context:

ADMINISTRATOR: The manager or administrator of the City or such other person designated by the City to hear appeals as provided in Section 405.080(B)(5).

DIRECTOR: The City's Public Works Director or such other person designated to administer and enforce this Section.

FACILITIES: A network or system, or any part thereof, used for providing or delivering a service and consisting of one (1) or more lines, pipes, irrigation systems, wires, cables, fibers, conduit facilities, cabinets, poles, vaults, pedestals, boxes, appliances, antennas, transmitters, radios, towers, gates, meters, appurtenances or other equipment.

FACILITIES PERMIT: A permit granted by the City for placement of facilities on private property.

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PERSON: An individual, partnership, limited liability corporation or partnership, association, joint stock company, trust organization, corporation or other entity or any lawful successor thereto or transferee thereof.

SERVICE: Providing or delivering an economic good or an article of commerce, including, but not limited to gas, telephone, cable television, Internet, open video systems, video services, alarm systems, steam, electricity, water, telegraph, data transmission, petroleum pipelines, sanitary or storm water sewerage or any similar or related service, to one (1) or more persons located within or outside of the City using facilities located within the City.

B. *Facilities Permits.*

1. Any person desiring to place facilities on private property must first apply for and obtain a facilities permit, in addition to any other permit, license, easement, franchise or authorization required by law. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determines in his or her discretion to be necessary and consistent with the provisions of this Section and to accomplish the purposes of this Section. Each application shall at minimum contain the following information, unless otherwise waived by the Director:
 - a. The name of the person on whose behalf the facilities are to be installed and the name, address and telephone number of a representative whom the City may notify or contact at any time (i.e., twenty-four (24) hours per day seven (7) days per week) concerning the facilities;
 - b. A description of the proposed work, including a site plan and such plans or technical drawing or depictions showing the nature, dimensions and description of the facilities, their location and their proximity to other facilities that may be affected by their installation.
2. Each such application shall be accompanied by an application fee approved by the City to cover the cost of processing the application.
3. *Application review and determination.*
 - a. The Director shall promptly review each application and shall grant or deny the application within thirty-one (31) days. Unless the application is denied pursuant to Subparagraph (d) hereof, the Director shall issue a facilities permit upon determining that the applicant:
 - (1) Has submitted all necessary information,
 - (2) Has paid the appropriate fees, and

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- (3) Is in full compliance with this Section and all other City ordinances. The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.
 - b. It is the intention of the City that proposed facilities will not impair public safety, harm property values or significant sight lines or degrade the aesthetics of the adjoining properties or neighborhood and that the placement and appearance of facilities on private property should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Section. To accomplish such purposes the Director may impose conditions on facilities permits including alternative landscaping, designs or locations, provided that such conditions are reasonable and necessary, shall not result in a decline of service quality and are competitively neutral and non-discriminatory.
 - c. An applicant receiving a facilities permit shall promptly notify the Director of any material changes in the information submitted in the application or included in the permit. The Director may issue a revised facilities permit or require that the applicant reapply for a facilities permit.
 - d. The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
 - (1) Delinquent fees, costs or expenses owed by the applicant;
 - (2) Failure to provide required information;
 - (3) The applicant being in violation of the provisions of this Section or other City ordinances;
 - (4) For reasons of environmental, historic or cultural sensitivity as defined by applicable Federal, State or local law;
 - (5) For the applicant's refusal to comply with reasonable conditions required by the Director; and
 - (6) For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission and is imposed on a competitively neutral and non-discriminatory basis.
4. *Permit revocation and ordinance violations.*
- a. The Director may revoke a facilities permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Section. Prior to revocation the Director shall provide

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written notice to the responsible person identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown. A substantial breach includes, but is not limited to, the following:

- (1) A material violation of the facilities permit or this Section;
 - (2) An evasion or attempt to evade any material provision of the permit or this Section or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;
 - (3) A material misrepresentation of fact in the permit application;
 - (4) A failure to complete facilities installation by the date specified in the permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the applicant's control; and
 - (5) A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards or the City's pertinent and applicable ordinances including, but not limited to, this Section, provided that City standards are no more stringent than those of a national safety ordinance.
- b. Any breach of the terms and conditions of a facilities permit shall also be deemed a violation of this Section and in lieu of revocation the Director may initiate prosecution of the applicant or the facilities owner for such violation.

5. *Appeals and alternative dispute resolution.*

- a. Any person aggrieved by a final determination of the Director may appeal in writing to the Administrator within five (5) business days thereof. The appeal shall assert specific grounds for review and the Administrator shall render a decision on the appeal within fifteen (15) business days of its receipt affirming, reversing or modifying the determination of the Director. The Administrator may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision. Any person aggrieved by the final determination of the Administrator may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the Administrator's final determination.
- b. On agreement of the parties and in addition to any other remedies, any final decision of the Administrator may be submitted to mediation or binding arbitration.

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- (1) In the event of mediation, the Administrator and the applicant shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.
- (2) In the event of arbitration, the Administrator and the applicant shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the Administrator, one (1) arbitrator selected by the applicant or facilities owner and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees.

C. Facilities Regulations.

1. The following general regulations apply to the placement and appearance of facilities:
 - a. Facilities shall be placed underground, except when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically unfeasible as determined by the City and when in the City's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed. Facilities shall not be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.
 - b. Facilities shall be located in such a manner as to reduce or eliminate their visibility. Non-residential zoning districts are preferred to residential zoning districts. Preferred locations in order of priority in both type districts are:
 - (1) Thoroughfare landscape easements,
 - (2) Rear yards, and
 - (3) Street side yards on a corner lot behind the front yard setback. Placements within side yards not bordered by a street or within front yards are discouraged.
 - c. Facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Sight-proof screening, landscape or otherwise, may be required for facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials and shall be approved by the Director prior to installation of any facility requiring landscape screening. The person responsible

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for the facilities shall be responsible for the installation, repair or replacement of screening materials. Alternative concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.

- d. Facilities shall be constructed and maintained in a safe manner and so as to not emit any unnecessary or intrusive noise and in accordance with all applicable provisions of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and all other applicable Federal, State or local laws and regulations.
 - e. No person shall place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.
 - f. If the application of this Subsection excludes locations for facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but the City shall not be required to incur any financial cost or to acquire new locations for the applicant.
2. Any person installing, repairing, maintaining, removing or operating facilities and the person on whose behalf the work is being done, shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced and the responsible person shall immediately notify the owner of the fact of the damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.
 3. The applicant shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work.
 4. At the City's direction, a person owning or controlling facilities shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
 5. If a person installs facilities without having complied with the requirements of this Section or abandons the facilities, said person shall remove the facilities and if the person fails to remove the facilities within a reasonable period of time, the City may, to the

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extent permitted by law, have the removal done at the person's expense.

6. Facilities shall be subject to all other applicable regulations and standards as established as part of the City Code including, but not limited to, building codes, zoning requirements and the Rights-Of-Way Usage Code in addition to the regulations provided herein. (Ord. No. 604 §4, 9-12-07)

CHAPTER 410: BOARD OF ADJUSTMENT

SECTION 410.010: CREATION, APPOINTMENT, TERM

- A. A Board of Adjustment is hereby established for Velda City. The word "*Board*" when used in this Chapter, shall be construed to mean the Board of Adjustment. The Board shall consist of five (5) members, all of whom shall be residents appointed by the Mayor of Velda City and approved by the Board of Aldermen of Velda City. The term of office of the members of the Board of Adjustment shall be for five (5) years excepting that the membership of the first (1st) Board appointed shall serve respectively for terms of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years. Thereafter, members shall be appointed for terms of five (5) years each. Vacancies shall be filled for the unexpired term only.
- B. Members may be removed for cause by the Board of Aldermen of the City upon written charges and after a public hearing.
- C. The Board shall elect its own Chairman and Acting Chairman who shall serve for one (1) year each. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Chapter or the Zoning Code of Velda City.
- D. The Board of Adjustment may determine and vary the application of the City's Zoning Code in harmony with its general purposes and intent and in accordance with the general and specific rules therein or under. (Ord. No. 323 §1, 7-18-79)

SECTION 410.020: MEETINGS

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman or in his/her absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record. All testimony,

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objections thereto, and rules thereon shall be taken down by a reporter employed by the Board for that purpose. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. (Ord. No. 323 §1, 7-18-79)

SECTION 410.030: APPEALS

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of Velda City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from unless the Building Commissioner certifies to the Board after the notice of appeal shall have been filed that by reason of facts stated in the certificate a stay would in his/her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the Building Commissioner on due cause shown.
- C. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Ord. No. 323 §1, 7-18-79)

SECTION 410.040: DUTIES, POWERS AND JURISDICTION

The Board of Adjustment shall have the following powers and it shall be its duty:

- 1. To hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision or determination made by the Building Commissioner in the enforcement of the Zoning Code.
- 2. To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership at the time of the passage of the Zoning Code.
- 3. To interpret the provisions of the Zoning Code in such a way as to carry out the intent and purpose of the plan as shown upon the map fixing the several districts accompanying and

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made a part of the Zoning Code where the street layout actually on the ground varies from the street layout as shown on the aforementioned map.

4. To permit the erection and use of a building or the use of premises for public governmental or public utility purposes.
5. To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God or public enemy, where the Board finds some compelling public necessity requiring a continuance of the non-conforming use, and where the primary purpose of continuing the non-conforming use is not to continue a monopoly.
6. To permit a variation in the yard requirements of any district where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variation will not seriously effect any adjoining property or the general welfare.
7. To permit or authorize upon appeal a variance or modification in the application of any of the regulations or provisions of the Zoning Code relating to the construction or alteration of buildings or structures or the use of land, where the Board finds there are practical difficulties or unnecessary hardship that would result from carrying out the strict letter of the Zoning Code and where the Board finds that its permitting or authorizing such variance or modification observes the spirit of the Zoning Code, secures public safety and welfare, and does substantial justice.
8. To hear and decide all and any other matters referred to it or upon which is required to pass under this Chapter, the Zoning Code, or the other ordinances of Velda City. (Ord. No. 323 §1, 7-18-79)

SECTION 410.050: DECISION

In exercising the above-mentioned powers such Board may, in conformity with the provisions of Sections 89.010 to 89.140, RSMo., reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

SECTION 410.060: DECISIONS SUBJECT TO REVIEW

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Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, or any officer, department, board or bureau of the City, may present to the Circuit Court of the County or City in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition the Court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order. The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under Sections 89.080 to 89.110, RSMo., shall have preference over all other civil actions and proceedings.

CHAPTER 415: FLOOD HAZARD PREVENTION

ARTICLE I. FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION 415.010: FINDINGS OF FACT -- STATUTORY AUTHORIZATION

- A. The legislature of the State of Missouri has in Chapter 89 (Section 89.020) of the State Statutes delegated the responsibility to local government units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of Aldermen of the City of Velda City, ordains flood regulations as set

out herein.

- B. The special flood hazard areas of the City of Velda City, Missouri, are subject to periodic inundation which results in loss of life, 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.
- C. *General Causes Of The Flood Losses.* These flood losses are caused by the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and by the occupancy in flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- D. *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 consist 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. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated October 30, 1984, 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.

SECTION 415.020: STATEMENT OF PURPOSE

It is the purpose of this Chapter to promote the public health, safety and general welfare; to minimize those losses described in Article I, Section 415.010(B); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as

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defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this Chapter to:

1. 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;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

ARTICLE II. DEFINITIONS

SECTION 415.030: DEFINITIONS

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

100-YEAR FLOOD: See "*base flood*".

ACCESSORY STRUCTURE: Means the same as "*appurtenant structure*".

ACTUARIAL OR RISK PREMIUM RATES: Those rates established by the Administrator pursuant to individual community studies and investigation which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and accepted actuarial principles. "*Risk premium rates*" include provisions for operating costs and allowances.

ADMINISTRATOR: The Federal Insurance Administrator.

AGENCY: The Federal Emergency Management Agency (FEMA).

APPEAL: A request for a review of the Code Enforcement Officer's interpretation of any provision of this Chapter or a request for a variance.

APPURTENANT STRUCTURE: A structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF SHALLOW FLOODING: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable

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and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD: The flood having a one percent (1%) chance of being equalled or exceeded in any given year.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING: See "structure".

CHIEF EXECUTIVE OFFICER OR CHIEF ELECTED OFFICIAL: The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

COMMUNITY: Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including, but not limited to buildings or structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELIGIBLE COMMUNITY OR PARTICIPATING COMMUNITY: A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

EXISTING CONSTRUCTION (FOR THE PURPOSES OF DETERMINING RATES): Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures".

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed before the effective date of the flood plain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The

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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: A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION DETERMINATION: A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY: An examination, evaluation and determination of flood hazards.

FLOOD FRINGE: The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

FLOOD HAZARD BOUNDARY MAP (FHBM): 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): 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: The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN MANAGEMENT: 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: 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 describes such State or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see "flooding").

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FLOODPROOFING: Any combination of structural and non-structural 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: 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 (1) foot.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on Federal, State and local floodplain maps.

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

FUNCTIONALLY DEPENDENT USE: A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An

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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 floodproofing design requirements of this Chapter.

MANUFACTURED HOME: A structure, transportable in one (1) 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.

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MARKET VALUE OR FAIR MARKET VALUE: An estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL: 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: 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, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the 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 the flood plain management regulations adopted by the community.

NFIP: The National Flood Insurance Program (NFIP).

PARTICIPATING COMMUNITY: Also known as "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.

PRINCIPALLY ABOVE GROUND: At least fifty-one percent (51%) of the actual cash value of the structure, less land value, is above ground.

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RECREATIONAL VEHICLE: A vehicle which is:

1. Built on a single chassis;
2. Four hundred (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.

REMEDY A VIOLATION: To bring the 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 non-compliance.

RISK PREMIUM RATES: 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.

SPECIAL FLOOD HAZARD AREA: See "*area of special flood hazard*".

SPECIAL HAZARD AREA: An area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

START OF CONSTRUCTION: Includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first (1st) 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; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms; the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual "*start of construction*" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE COORDINATING AGENCY: That agency of the State government, or other office designated by the Governor of the State or by State Statute at the request of the Administrator

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to assist in the implementation of the National Flood Insurance Program (NFIP) in that State.

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

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (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, however, include either:

1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

VARIANCE: Grant of relief to a person from the requirements of this Chapter which permits construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship. Flood insurance requirements remain in place of any varied use or structure and cannot be varied by the community.

VIOLATION: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

ARTICLE III. GENERAL PROVISIONS

SECTION 415.040: LANDS TO WHICH THIS CHAPTER APPLIES

This Chapter shall apply to all areas within the jurisdiction of the City of Velda City, Missouri, identified as numbered and unnumbered A zones and AE zones, on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) most recently adopted. In all areas covered by this Chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Board of Aldermen or its duly designated representative under such safeguards and restrictions as the Board of Aldermen 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 V.

SECTION 415.050: PENALTIES FOR NON-COMPLIANCE

- A. No development located in the special flood hazard areas of this community shall hereafter be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Chapter and other applicable regulations.
- B. Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- C. Nothing herein contained shall prevent the City of Velda City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 617 §1, 7-8-09)

SECTION 415.060: ABROGATION AND GREATER RESTRICTIONS

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 415.070: INTERPRETATION

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the Governing Body; and
3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

SECTION 415.080: WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Velda City or by any Officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

SECTION 415.090: SEVERABILITY

If any Section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid in a court of appropriate jurisdiction, the remainder of this Chapter shall not be affected thereby.

ARTICLE IV. ADMINISTRATION

SECTION 415.100: ESTABLISHMENT OF A DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Article III, Section 415.040. No person, firm, or corporation or unit of Government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development as defined in Article II. Application for a Development Permit shall be made on forms furnished by the Code Enforcement Officer and may include, but not be limited to;

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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:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
2. Elevation in relation to mean sea level to which any non-residential structure is to be floodproofed.
3. Certification from a registered professional engineer or architect that the non-residential floodproofed structure will meet the floodproofing criteria in Article V, Section 415.170.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

SECTION 415.110: 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 or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the Codes Enforcement Officer;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

SECTION 415.120: DESIGNATION OF THE LOCAL ADMINISTRATOR

The Codes Enforcement Officer is hereby appointed to administer and implement the provisions of this Chapter, by granting or denying development permit applications in accordance with its provisions.

SECTION 415.130: DUTIES AND RESPONSIBILITIES OF THE CODES ENFORCEMENT OFFICER

Duties of the Codes Enforcement Officer shall include, but not be limited to:

1. Review all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this Chapter have been satisfied.
2. Review 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. When base flood elevation data has not been provided in accordance with Article III, Section 415.040, then the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation or floodway data available from a Federal, State or other source, in order to administer the provisions of Article V.
4. Verify, record and maintain records of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
5. Verify, record and maintain records of the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been floodproofed.
6. When floodproofing techniques are utilized for a particular non-residential structure the Code Enforcement Officer shall obtain certification from a registered professional engineer or architect.
7. Notify adjacent communities and the State Emergency Management Agency (SEMA) prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
8. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

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9. Where interpretation is 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 condition) the Codes Enforcement Officer shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
10. Issue floodplain development permits for all approved applications.
11. 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.

SECTION 415.140: VARIANCE PROCEDURES

- A. The Board of Adjustment as established by the City of Velda City shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirements, decision, or determination made by the Code Enforcement Officer in the enforcement or administration of this Chapter.
- C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court of Platte County, Missouri, as provided in Section 89.110, RSMo.
- D. In passing upon such applications, the Board of Adjustment 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 that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of a 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;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;

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8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. 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
11. 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.

E. *Conditions for Variances.*

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided in Subsections (2)--(6) below, have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, or rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon a determination that the proposed activity will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. 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.

6. 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 twenty-five dollars (\$25.00) or one hundred dollars (\$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.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 415.150: 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 numbered or unnumbered A 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 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 zone or AE zone on the 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 (1) foot at any point within the community.
- D. In all areas of special flood hazards (Zones A, AE, A1-30) the following provisions are required in all new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes and other development:
 1. All new construction including manufactured homes and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads,

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including the effects of buoyancy.

2. Shall be constructed with materials resistant to flood damage.
3. Shall be constructed by methods and practices that minimize flood damage.
4. Shall be constructed with electrical, heating, ventilation, plumbing, and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters.
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
8. *Storage, material and equipment.* 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.
9. 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.
10. Until a floodway has been designated, no development, including landfill, may be permitted within zones A1-30 and AE on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevations of the 100-year flood more than one (1) foot on the average cross-section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference; Article III, Section 415.040 of this Chapter.

SECTION 415.160: STANDARDS FOR SUBDIVISION PROPOSALS

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

1. All such proposals shall be consistent with the need to minimize flood damage.
2. All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.

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3. Adequate drainage provided to reduce exposure to flood hazards.
4. All proposals for development (including proposals for manufactured home parks and subdivisions), of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

SECTION 415.170: SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article III, Section 415.040 or Article IV, Section 415.100 (Zones A1-30 and AE) the following provisions are required:

1. *Residential Construction.* New construction or substantial improvement of any residential structure including manufactured homes, shall have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation.
2. *Non-Residential Construction.* New construction or substantial improvement of any commercial, industrial or other non-residential structure including manufactured homes, shall either have the lowest floor, including basement, elevated to or one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a 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 registered professional engineer or architect shall certify that the standards of this Subsection are satisfied. Such certification shall be provided to the Official as set forth in Article IV, Section 415.130.
3. *Requirements for all New Construction and Substantial Improvements.* Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 (2) openings having a total net area of not less than one (1) 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 (1) 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.
4. In all areas of special flood hazard, once floodway data is obtained, as set forth in Section

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415.040, the following provisions are required:

- a. 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 (1) foot at any point; and
- b. 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.

5. *Manufactured Homes.*

- a. All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones, on the community's FIRM 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. Manufactured homes must be anchored in accordance with State and local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - (1) Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;
 - (2) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - (3) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
 - (4) Any additions to the manufactured home be similarly anchored.
- b. Require manufactured homes that are placed or substantially improved within unnumbered A zones and AE zones on the community's FIRM on sites:
 - (1) Outside of manufactured home park or subdivision;
 - (2) In a new manufactured home park or subdivision;

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- (3) In an expansion to and 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 the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or one (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones and AE zones on the community's FIRM, that are not subject to the provisions of Subparagraph (b) of this Subsection, be elevated so that either:
- (1) The lowest floor of the manufactured home is at or one (1) foot above the base flood level; or
 - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
6. *Recreational vehicles.* Recreational vehicles placed on sites within special flood hazard areas on the community's FIRM shall either:
- a. Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use*; or
 - b. Meet the permitting, elevating and the anchoring requirements for manufactured homes of this Chapter.

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

SECTION 415.180: AREAS OF SHALLOW FLOODING (AO AND AH ZONES)

Located within the areas of special flood hazard established in Article III, Section 415.040 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- 1. *Within AO Zones.*

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- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
 - b. All new construction and substantial improvements of non-residential structures shall:
 - 1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified), or
 - 2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level 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.
 - c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
 - d. The anchoring requirements for manufactured homes as established in Section 415.170, Subsection 5(a) shall be required.
2. *Within AH Zones.*
- a. The specific standards for all areas of special flood hazard where base flood elevation data has been provided shall be required as set forth in Section 415.170.
 - b. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

ARTICLE VI. NON-CONFORMING USE

SECTION 415.190: NON-CONFORMING USE

- A. A structure or the use of a structure or premises which was lawful before the passage or 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 use is discontinued for thirty-six (36) consecutive months, any future use of the building premises shall conform to this Chapter. The Utility Department shall notify the Code Enforcement Officer in writing of instances of non-conforming uses where utility services have been discontinued for a period of thirty-six (36) months.

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2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.
- B. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred unless reconstructed in conformity with the provisions of this Chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

ARTICLE VII. AMENDMENTS

SECTION 415.200: AMENDMENTS

- A. The regulations, restrictions, boundaries set forth in this Chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973; provided however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Velda City.
- B. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this Chapter are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.