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ATTEST:

/s/ Mildred E. Hanson
Mildred E. Hanson, City Clerk

I, Mildred E. Hanson, City Clerk for the City of Abilene, Kansas do hereby certify that the foregoing Ordinance No. 2734 was duly passed by the Governing Body on the 11th day of May, 1992, and that the same was published one (1) time in the Abilene Reflector Chronicle, the official city newspaper which publication date was Tuesday, May 26, 1992.

Mildred E. Hanson
Mildred E. Hanson, City Clerk

(First published in the Abilene Reflector Chronicle, Thursday, December 17, 1992)

ORDINANCE NO. 2735

AN ORDINANCE ESTABLISHING FLOOD PLAIN MANAGEMENT CONSISTENT WITH PRESENT FEDERAL REGULATIONS AND STATE LAW AND REPEALING THE INCONSISTENT PROVISIONS OF ORDINANCE NO. 2631

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS, THAT:

SECTION 1. Chapter XX of the Code of the City of Abilene, Kansas, which establishes flood plain management is hereby modified in the following respects to conform with present federal regulations and state law:

- (a) The statutory authorization is K.S.A. 12-741, rather than K.S.A. 12-707.
- (b) A definition of "Historic Structure" is added to provide:

"Historic Structure" means 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 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.

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- b) Directly by the Secretary of the Interior in states without approved programs.

- (c) The definition of "Mean Sea Level" is changed to provide:

"Mean Sea Level" means the average height of the sea for all stages of the tide."

- (d) The definition of "New Construction" is changed to provide:

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

- (e) A definition of "Substantial Damage" is added to provide:

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(e) A definition of "Substantial Damage" is added to provide:
"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
(f) The definition of "Substantial Improvement" is changed to provide:

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred."

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(f) The definition of "Substantial Improvement" is changed to provide:

"Substantial Improvement" means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before 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 enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a 'historic structure,' provided that the alterations will not preclude the structure's continued designation as a 'historic structure.'"

(g) The City Engineer is the Administrator of the flood plain management, rather than the Building Inspector, and all references to the "Building Inspector" are changed to the "City Engineer."

(h) The duties of the Administrator are changed to require the Administrator to:

"Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures been elevated."

(i) The duties of the Administrator are changed to require the Administrator to:

"When base flood elevation data has not been provided in accordance with Art. 20-103(B), then the Administrator shall obtain, review, and reasonably utilize any base flood elevation data or floodway available from a federal, state or other source in order to administer the provisions of Article 5."

(j) The duties of the Administrator are changed to require the Administrator to:

"All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Engineer and shall be open for public inspection."

(k) Permit procedures are changed to require the applicant to:

"Provide a certificate from a registered professional engineer or architect that the non-residential flood proofed structure meets the flood proofing criteria in Art. 20-105(B) (2)."

(l) Variance procedures are changed to allow that:

"Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, without regard to the procedures set forth in the remainder of this section, provided alterations will not preclude the structure's continued designation as a 'Historic Structure.'"

(m) Variance procedures are changed to allow that:

"Variances may be issued for detached garages and other accessory structures, if they are designed and constructed to meet the following requirements:

- a) Use of the structure must be limited to parking or limited storage and not used for human habitation.
 - b) The structure must be built using unfinished and flood damage resistant materials.
 - c) The structure must meet the anchoring and flow thru opening requirements pursuant to Article 20-105(B) 2) and 3).
 - d) Any mechanical and utility equipment in the structure must be elevated to at least one (1) foot above the base flood level or floodproofed.
 - e) The structure shall be constructed and placed on the building site in a manner offering the minimum resistance to the flow of floodwaters.
 - f) The structure shall not exceed 700 square feet.
- (n) Special flood hazard provisions are changed to require:
- a) All new construction including manufactured homes and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure; resulting from hydrodynamic loads, including the effects of buoyancy.
 - (o) Specific standards for special flood hazards are changed to provide:
- f) The structure shall not exceed 700 square feet."

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"Substantial Improvement" means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before 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 enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a 'historic structure,' provided that the alteration will not preclude the structure's continued designation as a 'historic structure.'"

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- c) The structure must meet the anchoring and flow thru opening requirements pursuant to Article 20-105(B) 2) and 3).
- d) Any mechanical and utility equipment in the structure must be elevated to at least one (1) foot above the base flood level or floodproofed.
- e) The structure shall be constructed and placed on the building site in a manner offering the minimum resistance to the flow of floodwaters.
- f) The structure shall not exceed 700 square feet.

(n) Special flood hazard provisions are changed to require:

"All new construction including manufactured homes and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure; resulting from hydrodynamic loads, including the effects of buoyancy."

(o) Specific standards for special flood hazards are changed to provide:

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"Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Art. 20-103(B) or Art. 20-104(B) (9), the following provisions are required.

- 1) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least 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 shall either have the lowest floor, including basement, elevated at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings have a total net area of net less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters."

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(p) The provisions relating to manufactured homes in special flood hazard areas are changed to require:

"All manufactured homes to be placed or substantially improved within Zones AI-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system."

(q) The provisions relating to new construction and substantial improvements in thoroughways are changed to provide:

"If Art. 20-105(B) (4) (a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Art. 20-105".

(r) The limitation on the reconstruction of nonconforming uses and structures is changed to provide:

"If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 per cent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. 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, provided the alteration will not preclude the structure's continued designation as a 'Historic Structure.'"

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Section 2. The provisions of Ordinance No. 2631 which are inconsistent with this ordinance are hereby repealed.

Section 3. This ordinance shall be effective upon publication.

Passed on this 15th day of June, 1992.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

Section 2. The provisions of Ordinance No. 2631 which are hereby repealed.

Section 3. This ordinance shall be effective upon publication.

Passed on this 15th day of June, 1992.

/s/ Earl F. Mills
EARL F. MILLS
Mayor

ATTEST:

ATTEST:
/s/ Mildred E. Hanson
City Clerk

/s/ Mildred E. Hanson
MILDRED E. HANSON
City Clerk

I, Mildred E. Hanson, City Clerk for the City of Abilene, Kansas do hereby certify that the foregoing Ordinance No. 2735 was duly passed by the Governing Body on the 17th day of December, 1992, and that the same was published one (1) time in the Abilene Reflector Chronicle, the official city newspaper which publication date was Thursday, December 17, 1992.

Mildred E. Hanson
Mildred E. Hanson, City Clerk