



**REQUEST FOR COMMISSION ACTION**  
**CITY OF INDEPENDENCE**  
**June 25, 2020**

**Department** Safety & Code Enforcement

**Director Approval** *David Cowan*

**AGENDA ITEM** Consider ordinances relating to requirements for the CRS program.

**SUMMARY RECOMMENDATION** City Staff recommends the approval of the Ordinance modifications.

**BACKGROUND** The Building and Flood Administrator is working with ISO Specialist Melissa Mitchell to implement the CRS program for the City of Independence. The following ordinances are needed to implement this program.

- Mandatory Disclosure of property in the floodplain. This Ordinance would require the Disclosure in writing that the property is in the floodplain and the risk associated with that.
- Repealing City Code Section 18-35 and 18-37 and replacing them with new provisions.
  - The previous code had not been updated and has been updated to meet current staffing and titles.
  - Requires a building permit for any property in the floodplain
    1. The construction, building, moving, remodeling or reconstruction of any structure shall not be commenced;
    2. The improvement of any plan preliminary to any use of such land shall not be commenced; and
    3. Any building permit issued in conflict with the provisions of this Ordinance shall be null and void.
  - Elevations Certificate for any new or substantially improved structures in the floodplain.

**BUDGET IMPACT** There would be no budget impact.

**SUGGESTED MOTION** I move the City adopt the following ordinances: Ordinance 4329 creating a mandatory disclosure requirement for properties within the flood plain; and Ordinance 4330 repealing and replacing City Code Sections 18-35 and 18-37.

**SUPPORTING DOCUMENTS** Proposed Ordinances

**ORDINANCE NO. 4329**

**An Ordinance Creating a Mandatory Disclosure Requirement That Property Lies Within the Flood Plain**

*BE IT ORDAINED* by the Governing Body of the City of Independence, Kansas:

**Section 1. Flood Plain Defined.** As used in this ordinance, the flood plain shall be defined as that area designated by the Federal Emergency Management Agency (FEMA) as amended from time to time, as shown on the city's Flood Plain Overlay District.

**Section 2. Mandatory Disclosure.** If a property which is the subject of a rental agreement or sales agreement is located within the flood plain, it shall be the duty of every landlord, and the duty of every seller, to disclose to the tenant or buyer of the property, as the case may be, the following information, in writing, which shall be in 12 point bold type, and which shall be signed by all parties to any rental agreement or sales agreement:

- a. That the property is within the city's flood plain;
- b. That there is the possibility that structures located within the flood plain may be inundated with water during a flood;
- c. That there is the possibility of the loss of life and/or loss of property as a result of such flooding; and
- d. That insurance against the loss of property due to such flooding may be available and is typically the responsibility of either the tenant or buyer, as the case may be.

**Section 3.** Any person violating this ordinance shall, upon conviction, be subject to the penalties set forth in City Code Section 1-14.

**Section 4.** This Ordinance shall take effect upon its publication in the official City newspaper.

*Adopted by the Governing Body of the City of Independence, Kansas, on the 25<sup>th</sup> day of June, 2020.*

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LEONHARD CAFLISCH, Mayor

ATTEST:

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DAVID W. SCHWENKER, City Clerk

**ORDINANCE NO. 4330**

**An Ordinance Repealing City Code Sections 18-35 and 18-37 and Replacing Them with New Provisions Regarding The Appointment, Duties and Qualifications of a Building Inspector**

*BE IT ORDAINED* by the Governing Body of the City of Independence, Kansas:

**Section 1.** Current City Code Sections 18-35 and 18-37 are hereby repealed and replaced by the provisions of this ordinance

**Section 2. Office of the building inspector.**

a. There is hereby established the office of building inspector.

b. The city manager shall appoint a person who in his opinion is qualified through education and experience to hold the title of building inspector. The building inspector may hold another office or position concurrently.

c. The budget for the office of building inspector and the salary for the building inspector shall be established by the governing body in the same manner as for all other departments and staff salaries.

**Section 3. Duties of the building inspector.** The building inspector, or designee, shall enforce these regulations and in addition thereto and in furtherance of said authority, he shall:

a. Approve and issue all permits and certificates regarding compliance with all applicable building codes and ordinances, and make and maintain records thereof.

b. Conduct inspections of buildings and structures to determine compliance with the provisions of the applicable building codes and ordinances.

**Section 4. Building Permits.**

a. Unless a building permit shall first have been obtained from the office of the building inspector:

1. The construction, building, moving, remodeling or reconstruction of any structure shall not be commenced;

2. The improvement of any plan preliminary to any use of such land shall not be commenced; and

3. Any building permit issued in conflict with the provisions of this ordinance shall be null and void.

b. For any property located in the flood plain, any application for a building permit for all new or substantially improved structures in the Special Flood Hazard Area shall submit an elevation certificate with the application for building permit.

c. A building permit shall either be issued or denied by the building inspector within ten (10) days after the receipt of a complete application, or within such further time period as may be agreed to by the applicant. If the building inspector denies the application for a building permit, the reasons for the denial shall be provided to the applicant in writing.

d. A building permit shall become null and void six (6) months after the date it was issued, unless within such six (6) month period construction, building, moving, remodeling or reconstruction of a structure is commenced.

## **Section 5. Occupancy Certificates.**

a. No structure or any addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of this ordinance shall be occupied or used for any purpose unless an occupancy certificate shall first have been obtained from the office of the building inspector consistent with the provisions of this ordinance.

b. No occupancy certificate for a structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of this ordinance shall be issued until such time as all work has been completed and the premises inspected and certified by the office of the building inspector to be in full and complete compliance with the plans and specifications upon which the building permit was issued. Pending issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six (6) months from its date pending the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued or denied within ten (10) days after the receipt of an application therefore. If the occupancy certificate is denied, the building inspector shall provide the applicant the reasons for the denial in writing.

**Section 6. Fees, Charges and Expenses.** The governing body shall establish a schedule of fees, charges, and expenses, and a collection procedure, for building permits, certificates of occupancy, appeals, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the building inspector and may be altered and amended only by the governing body. No permit or certificate shall be issued unless or until such costs, charges, fees, or expenses listed in this ordinance have been paid in full, nor shall any action be taken on proceedings before the governing body, unless or until such fees have been paid in full.

**Section 7. Violations.** If any building or structure is erected, constructed, reconstructed, altered, converted or maintained, the city, in addition to other remedies, may institute an appropriate action to prevent such unlawful erection, construction, reconstruction, alteration, conversion; to restrain, correct, or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, or business in or about such premises. Such ordinance shall be enforced by the building inspector, or designee, who is empowered to cause any building, structure, place or premises to be inspected and examined, and to order, in writing, the remedy of any condition found to exist therein or in violation of any provision of this ordinance.

**Section 8. Penalty.** Pursuant to K.S.A. 12-710 as amended, the owner or agent of a building or premises in or upon which a violation of any provisions of this ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor, or any other person who commits, takes part, or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 for any one offense. Each day of noncompliance with the terms of this ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his rights under the U.S. Constitution.

**Section 9.** This Ordinance shall take effect upon its publication in the official City newspaper.

*Adopted by the Governing Body of the City of Independence, Kansas, on the 25<sup>th</sup> day of June, 2020.*

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LEONHARD CAFLISCH, Mayor

ATTEST:

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DAVID W. SCHWENKER, City Clerk