

CHAPTER XV. UTILITIES CHAPTER XVI. ZONING AND PLANNING

- Article 1. City Planning Commission
- Article 2. Reserved
- Article 3. Zoning Regulations
- Article 4. Board of Zoning Appeals
- Article 5. Subdivision Regulations

ARTICLE 1. CITY PLANNING COMMISSION

16-101. CREATED. Planning Commission. There is hereby created a planning commission in the city consisting of five members, all of whom reside within the city limits. Each member shall be appointed by the mayor with the consent of the governing body. Terms shall be staggered so that the terms of not more than two members shall expire in any one year. No term of a member of the planning commission shall be for more than three years. Vacancies on the planning commission shall be filled by the mayor with the consent of the governing body, and the person appointed to fill such vacancy shall serve the remainder of the term of the member whose position was vacated. (Ordinance 956 - 4/02/2007)

ARTICLE 2. RESERVED

ARTICLE 3. ZONING REGULATIONS

16-301. ZONING REGULATIONS INCORPORATED. There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the governing body of the City of Cimarron, Kansas, as prepared by the city and entitled, "Zoning Ordinance of Cimarron, Kansas." No fewer than three copies of the zoning ordinance marked "Official Copy as Incorporated by the Code of the City of Cimarron," and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours. (Code 1986) Amendment: the zoning regulations adopted by the governing body of the City of Cimarron, Kansas, as prepared by the City in a pamphlet form and officially approved as "Zoning Ordinance for the City of Cimarron 1988" on December 7, 1987. (Ordinance 834 – 12/07/1987)

Section 2. The zoning district maps as designated to be printed by the governing body on December 7, 1987, are part of the "Zoning Ordinance" and are incorporated by reference in this ordinance and in the Code of the City of Cimarron. (Ordinance 834 – 12/07/1987)

Section 3. No fewer than 3 copies of the zoning ordinance marked “Official copy as Incorporated by Ordinance No. 834 of the City of Cimarron” and to which there shall be attached a published copy of this ordinance, shall be filed with the city clerk to be opened for inspection and available to the public at all reasonable business hours. (Ordinance 834 – 12/07/1987)

Section 4. The previously effective zoning regulations of Chapter 16, Article 3 of the Code of the City of Cimarron are repealed as of the effective date of this ordinance. (Ordinance 834 – 12/07/1987)

Section 5. The previously effective flood plain zoning resolutions of the City of Cimarron, resolutions number 111, as well as all other ordinances and resolutions that are in existence on December 7, 1987, that are in direct conflict with this ordinance are repealed as of the effective date of this ordinance. (Ordinance 834 – 12/07/1987)

Ord. 843 – 01/09/89:

AN ORDINANCE ADOPTING A GENERAL AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF CIMARRON, KANSAS, 1988, ORDINANCE NO. 834, AND PROVIDING FOR ESTABLISHMENT OF B-1 ZONING INADVERTENTLY OMITTED FROM THE CODIFICATION IN ORDINANCE NO. 834 AND AMENDING THE MAPS INCORPORATED THEREIN.

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

Section 1 – There is hereby incorporated into the Code of the City of Cimarron as an amendment to the “Zoning Ordinance for the City of Cimarron 1988 Ordinance No. 834,” as fully set out herein a change in the B-1 District as set out in the amended zoning map of February 1, 1989.

Section 2 – The zoning district maps as designated to be printed by the governing body on December 7, 1987, as part of the zoning ordinance are amended to reflect additional B-1 Business District designation and after this amendment become effective, the official zoning maps of the City of Cimarron shall be the amended zoning maps of February 1, 1989.

Section 3 – No fewer than three copies of the zoning ordinance marked “Official Copy” as incorporated by Ordinance No. 834 of the City of Cimarron with official amendments and to which there shall be attached a published copy of this ordinance and the amended ordinance district maps shall be filed with the City Clerk, to be opened for inspection and available to the public at all reasonable business hours. Zoning Ordinance No. 834, a recodification of the zoning ordinances of the City of Cimarron remains in effect as amended by this Ordinance.

Section 4 – This Ordinance shall take effect after February 1, 1989, and after publication in the Jacksonian, the official newspaper of the City of Cimarron.

Ord. 844 – 08/07/89:

AN ORDINANCE ADOPTING A GENERAL AMENDMENT TO THE ZONING ORDINANCE TO THE CITY OF CIMARRON, KANSAS, 1988, ORDINANCE NO. 834,

AND PROVIDING FOR ENTIRELY NEW REGULATIONS ON ARTICLE V. "F-P" FLOOD PLAIN DISTRICT AND REPEALING THE EXISTING PROVISIONS OF ARTICLE V., AND AMENDING THE ZONING MAPS INCORPORATED THEREIN.
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CIMARRON, KANSAS:

Section 1. – The "Zoning Ordinance for the City of Cimarron 1988 Ordinance No. 834" is amended to change the zoning boundaries on the zoning map reflecting the flood plain zone area. The boundary lines of the flood plain district shall be that as identified by the Federal Emergency Management Agency in the Flood Insurance Rate Map (FIRM) as formally presented to the City of Cimarron by the Federal Emergency Management Agency on April 6, 1989, including designation of Zone AE, also called Fringe Zone, and Zone AE with slash lines, also called Floodway Zone. In addition, the elevations as indicated on the FIRM map are incorporated as part of the zoning map and zoning regulations.

Section 2. – After the effective day of this ordinance, the official zoning maps of the City of Cimarron shall be the amended zoning maps of February 1, 1989, with the Floodplain District "F-P" as an overlay map and will thereafter officially be known as the amended zoning map of April 6, 1989.

Section 3. – Article V. "F-P" Floodplain District as enacted in the original zoning ordinance is hereby repealed. A new Article V. "F-P" Floodplain District is hereby enacted as follows:

ARTICLE V. "F-P" FLOODPLAIN DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT

The "F-P" Floodplain District is intended for application in those areas of the community which are subject to inundation from surplus stormwater as defined by the Flood Insurance Study and accompanying Floodway Map, and any subsequent additions or amendments thereto, prepared for the City of Cimarron by the Federal Insurance Administration. This zone is intended for application throughout the zoning jurisdiction in locations where an official floodplain delineation has been established. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof; to minimize the hazard of loss of lives and property caused by floods; and to secure safety from floods through the confinement of floods within reasonable limits by regulating and restricting areas of development along or in natural water courses and drainways.

The district consists of two zones. One zone is marked AE and also referred to as Fringe Zone and part of AE is marked with slash lines and referred to as Floodway Zone.

SECTION 2. LANDS TO WHICH "F-P" FLOODPLAIN DISTRICT APPLIES.

Article V. shall apply to all lands within the jurisdiction of the "F-P" Floodplain District of the City of Cimarron as identified on the Flood Insurance Rate Map (FIRM) as the AE Zone. The AE Zone is divided into the Fringe Zone and the Floodway Zone. The Floodway is

distinguished by slash lines. In all areas covered by this overlay district, no development shall be permitted except upon a permit to develop, granted by the governing body of the City of Cimarron as set out in this article. No building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged or designed for other than one of the permitted uses in the parent district to which this district is made a part, and provided that such uses and structures meet the minimum requirements of these floodplain zone regulations.

SECTION 3. THE ENFORCEMENT OFFICER.

The City Clerk is hereby designated as the community's duly designated Enforcement Officer under Article V.

SECTION 4. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

The boundaries of the Floodway and Fringe overlay districts shall be determined by scaling distances on the official zoning map incorporating the Flood Insurance Rate Map (FIRM). Where interpretation is needed to the exact location of the boundaries of the districts as showing the official zoning map, as for example where there appears a conflict between a mapped boundary and actual field conditions, the City Clerk shall make the necessary interpretation. In such cases where interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

SECTION 5. ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this article to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provision of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

SECTION 6. INTERPRETATION.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

SECTION 7. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within

such districts will be free from flooding or flood damage. This article shall not create liability on the part of the City of Cimarron or any officer or employee thereof for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.

SECTION 8. SEVERABILITY.

If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

SECTION 9. APPEAL.

Where a request for a permit to develop or a variance is denied by the City Clerk the applicant may apply for such permit or variance directly to the Board of Zoning Appeals.

SECTION 10. PERMIT REQUIRED.

No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for F-P Floodplain development.

SECTION 11. ADMINISTRATION.

- A. The City Clerk is hereby appointed to administer and implement the provisions of this article.
- B. Duties of the City Clerk shall include, but not be limited to:
 - (1) Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.
 - (2) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - (3) Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
 - (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - (5) Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

(6) Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

(7) When floodproofing is utilized for a particular structure the City Clerk shall be presented certification from a registered professional engineer or architect.

SECTION 12. APPLICATION FOR PERMIT.

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

Identify and describe the work to be covered by the permit.

Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.

Indicate the use or occupancy for which the proposed work is intended.

Be accompanied by plans and specifications for proposed construction.

Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Give such other information as reasonably may be required by the City Clerk.

SECTION 13. STANDARDS FOR THE "F-P" FLOODPLAIN OVERLAY DISTRICT, APPLICABLE TO BOTH FRINGE AND FLOODWAY.

New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

- A. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. New or replacement water supply systems and/or sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water, and on-site waste disposal systems be located so as to avoid impairment or contamination.
- C. Construction materials must be resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- D. All utility and sanitary facilities must be elevated or floodproofed up to the regulatory flood protection elevation.
- E. Storage and Material and Equipment.
 - (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- F. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, are required to include that (1) all such proposals are consistent with the need to minimize flood damage, (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (3) adequate drainage is provided so as to reduce exposure to flood hazards, and (4) 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 the regulatory flood elevation.

SECTION 14. FRINGE OVERLAY ZONE (Shown as AE on FIRM Map).

A. Permitted Uses.

The uses in the Fringe Overlay Zone will be those of the parent district. In addition, all of those uses permitted in Section 15 shall be permitted in the Fringe Overlay Zone. The zone will be more restrictive than the parent zone to the extent that no uses shall be permitted in this zone unless the standards of Section 13 are met.

B. Standards for the Fringe Overlay Zone.

- (1) New construction or substantial improvements of residential structures required to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.
- (2) New construction or substantial improvements of nonresidential structures required to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such a level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability or 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.

- (3) All new construction and substantial improvements that fully enclosed areas below the lowest floor that 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 minimum of two openings having a total net area of not 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, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Manufactured Homes.
- (a) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or 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:
- (i) over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one additional tie per side;
- (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four additional ties per side;
- (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (iv) any additions to the manufactured home be similarly anchored.
- (b) Require that all manufactured homes to be placed within Zone AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system.

SECTION 15. FLOODWAY OVERLAY ZONE.

A. Permitted Uses.

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within Floodway District to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a professional

registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of Section 13 and 14. The following are recommended uses for the Floodway District.

Agricultural uses such as general farming, pasture, nurseries, forestry.

Residential uses such as lawns, gardens, parking and play areas.

Nonresidential areas such as loading areas, parking and airport landing strips.

Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

SECTION 16. VARIANCE PROCEDURES.

- A. The Board of Zoning Appeals as established by the City of Cimarron shall hear and decide appeals and requests for variances from the requirements of this article.
- B. The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Clerk in the enforcement or administration of this article.
- C. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this article, and:

The danger that materials may be swept onto other lands to the injury of others;

The danger to life and property due to flooding and erosion damage;

The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

The importance of the services provided by the proposed facility to the community;

The necessity to the facility of a waterfront location, where applicable;

The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

The compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;

The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

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,

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.

D. Conditions for Variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (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 (i) a showing of good and sufficient cause, (ii) a determination that failure to grant tot variance would result in exceptional hardship to the applicant, and (iii) 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) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 17. NONCONFORMING USE.

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the article, but which is not in conformity with the provisions of this article may be continued subject to the following conditions:

- (1) If such use is discontinued for one year, any future use of the building premises shall conform to this article.

(2) Uses or adjuncts thereof are or become nuisances shall not be entitled to continue as nonconforming uses.

- B. 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 article. 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.

SECTION 18. PENALTIES FOR VIOLATION.

Violation of the provisions of this article 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 article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$50.00 per day, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Cimarron or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 19. AMENDMENTS.

The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or repealed 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 Cimarron. At least 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 article are in compliance with the National Flood Insurance Program Regulations.

SECTION 20. DEFINITIONS.

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

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

“Existing construction” means (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.”

“Floodway Fringe” is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent change of flood occurrence in any one year).

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

“Overlay District” is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

“Structure” means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

“Variances” is a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Ord. 856 – 04/06/93:

ORDINANCE TO REVISE AND ADD DEFINITIONS TO THE FLOODPLAIN
MANAGEMENT ORDINANCE NO. 844 PREVIOUSLY ADOPTED BY THE CITY OF
CIMARRON ON AUGUST 7, 1989.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CIMARRON:

SECTION 1. The definition of substantial improvement as set out in Ordinance No. 844 is repealed and the following definition is substituted:

“Substantial improvement” means a 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 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 a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

SECTION 2. The following shall be added to the definition section of Ordinance No. 844:

“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.

SECTION 3. The following shall be added to the definition section of Ordinance No. 844:

“Recreational vehicle” means a vehicle which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

SECTION 4. The following shall be added to the definition section of Ordinance No. 844:

“Manufactured home” means a structure, transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

Ord. 852 – 05/04/92:

AN ORDINANCE AMENDING ORDINANCE NO. 834, THE ZONING ORDINANCE OF THE CITY OF CIMARRON BY REZONING FROM B-1 GENERAL BUSINESS DISTRICT TO R-1 SINGLE FAMILY DWELLING, A TRACT DESCRIBED HEREIN.

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

Section 1. The following described land has met the requirements for amendment of zoning as prescribed by K.S.A. 12-757 as all of the owners of the land have by written petition asked to amend the zoning and approval has been recommended by the Planning Committee of the City of Cimarron. The land to be rezoned is described as:

Commencing at the intersection of the North R/W line of Highway 50 and the East line of the Northwest Quarter (NW¼) of Section 12, Township 26 South, Range 28 West of the 6th P.M.; thence West along the said North R/W line a distance of 962.2 feet to the point of beginning; thence North and parallel to the East line of said Northwest Quarter (NW¼) of Section 12 to the South line of the Eureka irrigation canal; thence Northwesterly along the South line of the said canal to a point directly North of a point 160.0 feet West of the point of beginning; thence South and parallel to the said East line of the Northwest Quarter (NW¼) of Section 12 to the North R/W line of Highway 50; thence East along the North Right-of-way line of Highway 50 a distance of 160.0 feet to the point of beginning.

Section 2. The above tract of land shall be zoned as R-1 Single Family Dwelling District as provided in Zoning Ordinance No. 834 and Amendments thereto.

Ord. 864 – 09/06/94:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CIMARRON, KANSAS, 1988, ORDINANCE NO. 834, AND PROVIDING FOR ESTABLISHMENT OF R-2 ZONING IN REAL ESTATE DESCRIBED HEREIN AND AMENDING THE ZONING MAPS.

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

Section 1. There is hereby incorporated into the Code of the City of Cimarron as an amendment to the “Zoning Ordinance for the City of Cimarron 1988 Ordinance No. 834, a rezoning as set out in Section 3.

Section 2. The official zoning maps of the City of Cimarron, the amended zoning maps of February 1, 1989, shall be changed to show this amendment.

Section 3. All of Lot 12 and the N 40 feet of Lot Eleven in Block 13 in the original townsite of the City of Cimarron shall be rezoned from R-1 to R-2 for residential land use of duplexes.

Ord. 869 – 02/06/95:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CIMARRON, KANSAS, 1988, ORDINANCE NO. 834, AND PROVIDING FOR ESTABLISHMENT OF ZONING AS STATED HEREIN, AND AMENDING THE MAPS INCORPORATED THEREIN.

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

Section 1. There is hereby incorporated into the Code of the City of Cimarron an amendment to the “Zoning Ordinance for the City of Cimarron 1988 Ordinance No. 834,” as follows:

The East 70’ of Lots 13, 14 and 15 of Block 35 in the original City of Cimarron is changed from R-1 to B-1 for Business District.

Section 2. No fewer than three copies of the zoning ordinance marked “official Copy” as incorporated by Ordinance No. 834 of the City of Cimarron with official amendments and to which there shall be attached a published copy of this ordinance and the amended ordinance district maps shall be filed with the City Clerk, to be opened for inspection and available to the public at all reasonable business hours. Zoning Ordinance No. 834, a recodification of the zoning ordinances of the City of Cimarron remains in effect as amended by this ordinance.

Ord. 870 – 06/05/95:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CIMARRON, KANSAS, 1988, ORDINANCE NO. 834, AND PROVIDING FOR ESTABLISHMENT OF I-1 ZONING IN REAL ESTATE DESCRIBED HEREIN AND AMENDING THE ZONING MAPS.

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Section 1. There is hereby incorporated into the Code of the City of Cimarron as an amendment to the “Zoning Ordinance for the City of Cimarron 1988 Ordinance No. 834, a rezoning as set out in Section 3.

Section 2. The official zoning maps of the City of Cimarron, the amended zoning maps of February 1, 1989, shall be changed to show this amendment.

Section 3. The South Half (S/2) of Lot 3 all of Lots 4, 5, and 6 in Block 37 in the original town of the City of Cimarron shall be rezoned from R-1 to I-1 for light industrial.

Ord. 939 – 08/01/05:

AN ORDINANCE AMENDING ARTICLE 7, §6(2)(a) OF ORDINANCE NO. 834 OF THE CITY OF CIMARRON TO OMIT THE REQUIREMENT OF SIDE YARD SETBACKS FOR SPECIFIC ACCESSORY BUILDINGS UNDER ENUMERATED CIRCUMSTANCES AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the City of Cimarron, Kansas, has the authority to prescribe zoning regulations for the benefit and protection of the residents of the City;

AND WHEREAS, to make the administration of the zoning regulations more efficient and compliance with the zoning regulations less burdensome,

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

1. Addition of subsection pertaining to accessory buildings. That Article 7, §6(1)(a) shall be amended to provide for a new subsection (i) as follows:

Exception for certain accessory buildings. The requirement for a side yard on each side of a building shall not apply to any accessory building A) which is readily moveable; B) placed in a rear yard more than 5 feet from any other building; C) less than 120 square feet; D) for which the adjoining landowners have signed executed a revocable consent to the placement of such accessory building; and E) which otherwise meets all requirements as the City may establish from time to time.

2. Conflicting ordinances repealed. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Ord. 941 – 10/03/05:

AN ORDINANCE AMENDING ARTICLE 7, §6(2)(a) OF ORDINANCE NO. 834 OF THE CITY OF CIMARRON TO OMIT THE REQUIREMENT OF SIDE YARD SETBACKS FOR SPECIFIC ACCESSORY BUILDINGS UNDER ENUMERATED CIRCUMSTANCES AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the City of Cimarron, Kansas, has the authority to prescribe zoning regulations for the benefit and protection of the residents of the City;

AND WHEREAS, to make the administration of the zoning regulations more efficient and compliance with the zoning regulations less burdensome,

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

1. Addition of subsection pertaining to accessory buildings. That Article 7, §6(1)(a) shall be amended to provide for a new subsection (ii) as follows:

Exception for certain carports. The requirement for a side yard on each side of a building shall not apply to any carport A) which is readily moveable; B) which is secured in such a manner as to not constitute a hazard; C) for which the adjoining landowners have signed executed a revocable consent to the placement of such accessory building; and D) which otherwise meets all requirements as the City may establish from time to time.

2. Conflicting ordinances repealed. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

3. Effective date. That this ordinance shall take effect and be in force from and after its adoption and publication in The Jacksonian, the official City newspaper.

ARTICLE 4. BOARD OF ZONING APPEALS

- 16-401. BOARD CREATED. (a) A board of zoning appeals is hereby created. The board shall consist of three members to be appointed by the mayor with the approval of the city

council. All of the members of the board shall be residents of the city. None of the members shall hold any other public office of the city except that one member shall be a member of the city planning commission.

- (b) The member of the planning commission shall be appointed to the board in the same manner as other members of the board of zoning appeals. In the event such member's term on the planning commission shall expire prior to the expiration of the term on the board of zoning appeals, and in the event such member is not reappointed on the planning commission, his or her position on the board of zoning appeals shall become vacant simultaneously with the expiration of the appointment to the planning commission.

(Code 1984)

16-402. VACANCY. In the event of the death, resignation, disqualification or removal of any member before the expiration of his or her term, a successor shall be appointed by the mayor and confirmed by the city council to serve the unexpired term. (Code 1984)

16-403. OFFICERS. (a) The board of zoning appeals shall annually elect a chairperson, a vice-chairperson and secretary. The secretary may be an officer or employee of the city.

- (b) The chairperson, or in his or her absence the vice-chairperson, shall preside at all meetings, shall decide all points of order or procedure.

(Code 1984)

16-404. RULES AND MEETINGS. The board may adopt rules to govern its proceedings in accordance with the provisions of this article. Meetings of the board shall be held at any time at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be held at such place or places within the city as the board may designate and shall be open to the public. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board, and the vote upon each question. (Code 1984)

16-405. POWERS AND DUTIES. The board of zoning appeals shall administer the details of appeals from the provisions of the zoning ordinance, or other matters referred to it regarding the application of the zoning ordinance as hereinafter provided. In exercising these powers, the board, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and attach appropriate conditions, and may issue or direct the issuance of a permit. (Code 1984)

16-406. INTERPRETATION; EXCEPTIONS. (a) Upon appeal from a decision by the building inspector or other administrative official, the board may decide any questions involving the interpretation of any provision of the zoning ordinance, including the determination of the exact location of any district boundary, if there is uncertainty with respect thereto, and the determination of an appropriate use group for a use that is not listed in the ordinance, and that the use is a similar use to the uses already in the use group.

- (b) The board may grant exceptions to the provisions of this article in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant an exception when conditions of this exception, as established in the zoning ordinance by the city council, are not found to be present.
(Code 1984)

- 16-407. VARIANCES. (a) The board may authorize in specific cases a variance from the specific terms of this article which will not be contrary to public interest and where, owing to special conditions, a literal enforcement of the provisions of this article, in an individual case, result in unnecessary hardship, and provided that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted in the zoning ordinance in such district.
- (b) A request for a variance may be granted in such case, upon finding of the board that all of the following conditions have been met:
 - (1) That the variance request arises from such conditions which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant;
 - (2) That the granting of the permit for the variance will not adversely affect the rights or adjacent property owners or residents;
 - (3) That the strict application of the provisions of this article of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - (4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
 - (5) That granting the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.
- (Code 1984)

- 16-408. APPEALS. (a) The board may hear and decide appeals where it is alleged that there is an error of law in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance. Such appeal shall be taken within 10 days after the order of action appealed from has been made by filing written notice of such appeal, specifying the grounds thereof, with the board of zoning appeals.
- (b) The board shall also have those powers and duties specifically set forth in other parts of this article.
- (Code 1984)

- 16-409. SAME; PROCEDURE. (a) Applications to the board for any type of proceeding may be taken by any person aggrieved, or by any officer of the city, or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance. All applications shall be made to the secretary of the board in

- writing on forms prescribed by the board within 10 days after the decision has been rendered by the building inspector or other administrative officer. Each application shall be accompanied by a current list of the names and mailing addresses of all property owners of record within 200 feet of the exterior boundaries of the property to be considered in the application.
- (b) The board shall fix a reasonable time for the public hearing on each application. The secretary of the board of zoning appeals, through the city clerk, shall cause to be published in the official paper of the city, a notice as to the time, place and date and subject of hearing for each application. Such notice shall appear at least once in the official city paper no less than 20 days prior to the date of hearing.
 - (c) The secretary through the city clerk shall also cause notice to be given by mail no less than 20 days prior to the date of the public hearing to each of the property owners of record within 200 feet of the exterior boundaries of the property to be considered in the application, as such owners are listed on the current list accompanying the application. Mailed notice shall also be given to each party to the appeal and to the secretary of the planning commission.
- (Code 1984)

16-410. EFFECT OF APPEAL. An appeal shall stay all proceedings of the action appealed from, unless the person affected by the appeal certified to the board that, by reason of facts stated in the certificate, a stay would in his or 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 a court of record on application and notice to the person from whom the appeal was taken. (Code 1984)

16-411. TIME LIMIT. No order of the board permitting the erection or alteration of a building, or the use of a building or premises shall be valid for a period longer than 120 days, unless a permit for such erection, alteration or use is obtained within the period and work started in accordance with the building or use permit.
The board may, at their discretion, extend the period for obtaining a permit in increments of 90 days without re-advertising or additional application. (Code 1984)

16-412. RECORDS. Every decision or determination by the board of zoning appeals shall be filed in the office of the city clerk not more than 10 working days following the date of hearing and shall become a public record. (Code 1984)

16-413. FEE. The fee for an application for appeal to the board shall be \$25, no part of which shall be refundable. The city clerk shall be responsible for the collection of the application fee. (Code 1984)

ARTICLE 5. SUBDIVISION REGULATIONS

Ord. 835 – 12/31/87:

AN ORDINANCE ADOPTING THE SUBDIVISION REGULATIONS OF THE CITY OF CIMARRON, KANSAS, 1988, BY REFERENCE.

Be it Ordained by the Governing Body of the City of Cimarron, Kansas:

Section 1. There is hereby incorporated into the Code of the City of Cimarron as Article 5 of Chapter XVI the "Subdivision Regulations of the City of Cimarron 1988" as if set out fully herein, which are the subdivision regulations as adopted by the governing body of the City of Cimarron, Kansas, as prepared by the City in a pamphlet form and officially approved as the "Subdivision Regulations for the City of Cimarron" on December 7, 1987.

Section 2. No fewer than 3 copies of the "Subdivision Regulations marked official copy as incorporated by Ordinance No. 834 of the City of Cimarron" and to which there shall be attached a published copy of this ordinance, shall be filed with the City Clerk to be opened for inspection and available to the public at all reasonable business hours.

Section 3. This ordinance shall take effect after January 1, 1988, and after publication of this ordinance in the Jacksonian, as the official newspaper of the City of Cimarron, and after the date that the officially marked printed pamphlets are available at the city offices.

Ord. 884 – 09/08/97:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CIMARRON, KANSAS, 1988, ORDINANCE NO. 834, AND PROVIDING FOR ESTABLISHMENT OF B-1 ZONING IN REAL ESTATE DESCRIBED HEREIN AND AMENDING THE ZONING MAPS.

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

Section 1. There is hereby incorporated into the Code of the City of Cimarron as an amendment to the Zoning Ordinance for the City of Cimarron 1988 Ordinance No. 834, a zoning change as set out in Section 3.

Section 2. The official zoning maps of the City of Cimarron, the amended zoning maps of February 1, 1989, shall be changed to show this amendment.

Section 3. The following described real estate shall be zoned B-1 General Business District:

A tract in the Northwest Quarter (NW¼) of Section Twelve (12), Township Twenty-Six (26) South, Range Twenty-Eight (28) West of the 6th P.M., Gray County, KS, more particularly described as follows: Commencing at the Northwest corner of said Section 12; thence along the West line of said Section 12 at an assumed bearing of South 0°00'00" West a distance of 1381.76 feet to a point on the South right of way line of U.S. Highway 50; thence along the South right of way line of U.S. Highway 50 at a bearing of North 89°31'09" East a distance of 1583.14 feet to a point on the West right of way line of Dell Street; thence continuing along the South right of way line of U.S. Highway 50 at a bearing of North 89°31'09" East a distance of 361.00 feet to a point of beginning; thence continuing on the South right of way line of U.S. Highway 50 at a bearing North 89°32'09" East in a distance of 272.04 feet; thence South 0°29'04" East a distance of 319.88 feet; thence South 0°29'04" East a distance

of 60.12 feet; thence South $89^{\circ}31'09''$ West a distance of 85.00 feet; thence South $0^{\circ}29'04''$ East a distance of 358.70 feet; thence North $83^{\circ}05'08''$ West a distance of 188.50 feet; thence North $0^{\circ}29'37''$ West a distance of 714.44 feet to the point of beginning.