

First Steps to Correcting Violations

Things aren't always going to be black and white.

Thank you for shopping at Shed World!



What Gives You the Right!

- **Kanas Statute Annotated 12-766, 12-767 and 12-768 (floodplains)**
- **Kansas Administrative Regulations 5-44-1 through 5-44-7**
- **Kansas Statute Annotated 12-1751 (dangerous structures)**
- **Your locally adopted floodplain regulations.**
- **Sanitation codes and Kansas Department of Health and Environment bulletin 4-2**
- **Adopted minimum housing codes**
- **K.S.A. 40-3901 (insurance proceeds)**
- **K.S.A. 12-1,115 (abatement and special assessment).**

Insurance Proceeds Ordinance

40-3901. Cities; payment of proceeds of insurance policies; procedure; release of proceeds. (a) The governing body of any city is hereby authorized to establish, by ordinance, a procedure for the payment of not to exceed 15% of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure. The ordinance shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer first shall pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment a sum not to exceed the amount authorized pursuant to subsection (a) and shall pay such moneys to the city to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. [40-3906](#), and amendments thereto.

(c) The city shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within 45 days after receipt of such moneys, unless the city has instituted legal proceedings under the provisions of K.S.A. [12-1752](#), and amendments thereto. If the city has proceeded under the provisions of K.S.A. [12-1752](#), and amendments thereto, all moneys in excess of that necessary to comply with the provisions of K.S.A. [12-1750](#) et seq., and amendments thereto, for the removal of the building or structure, less salvage value, shall be paid to the insured.

History: L. 1982, ch. 192, § 2; L. 1997, ch. 102, § 2; L. 2016, ch. 72, § 2; July 1.

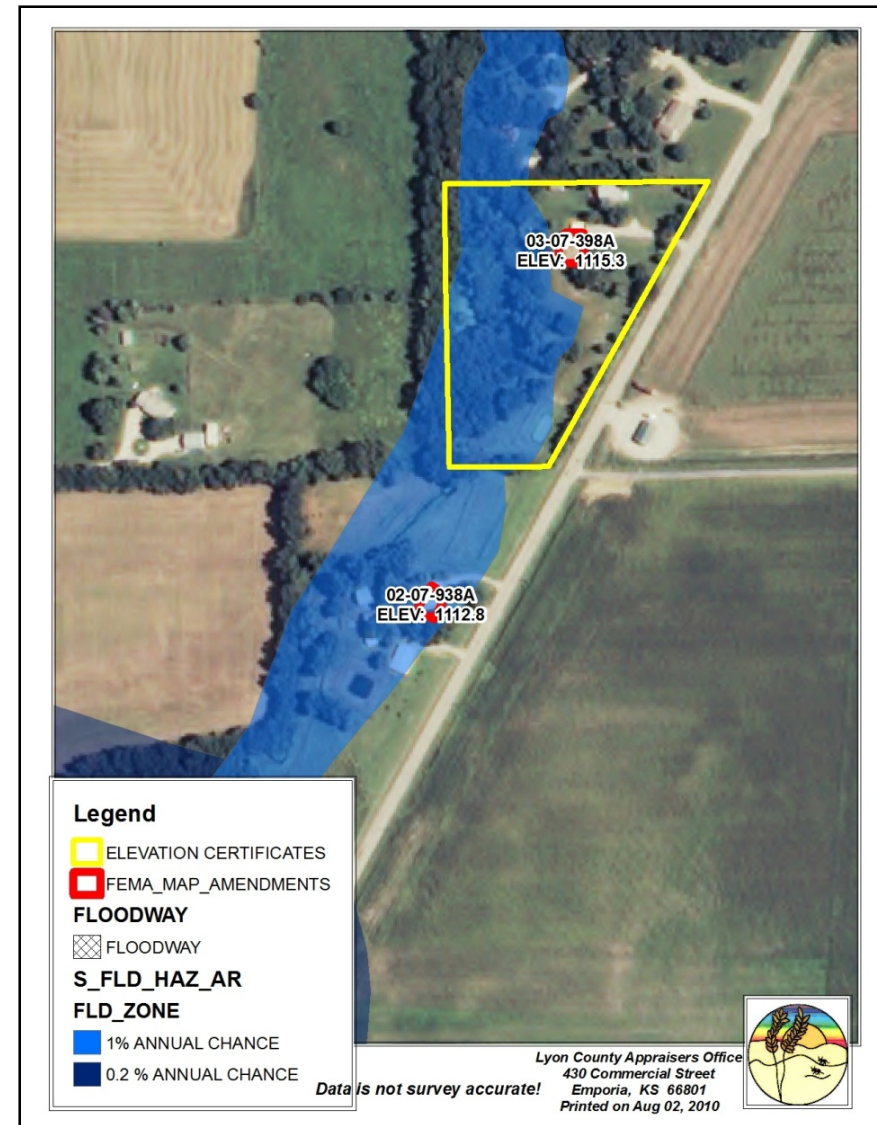
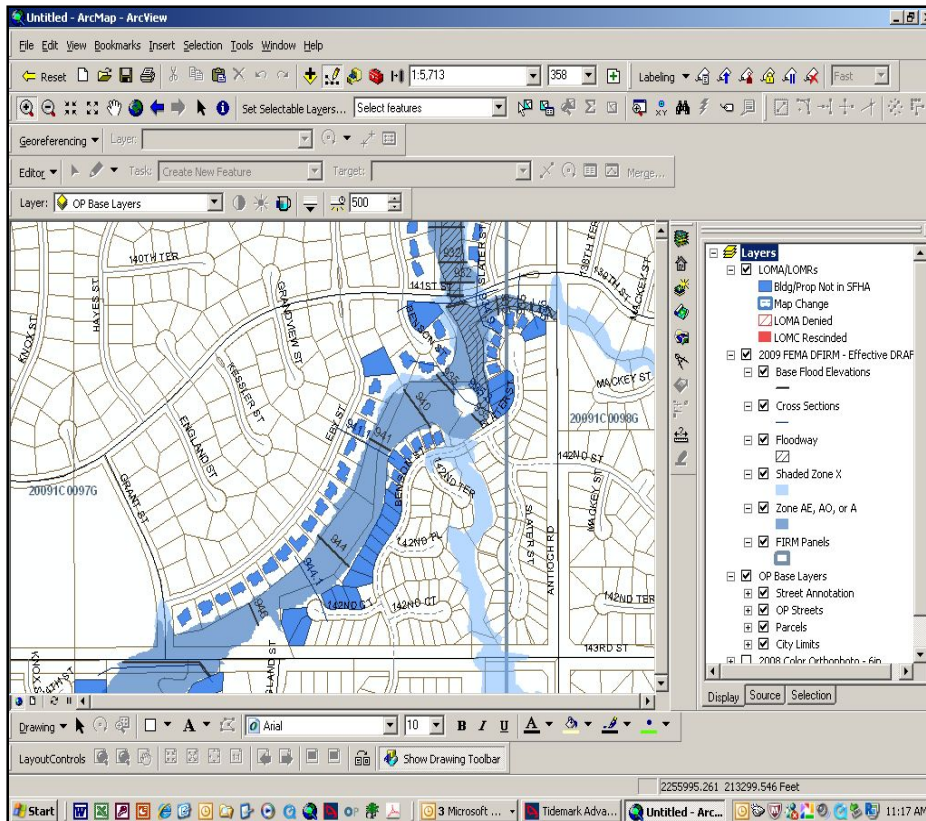
When does enforcement start?

- a. When you first become aware of the violation?
- b. When an anonymous complaint comes in to your office?
- c. When you visit the property?
- d. When the State NFIP Coordinator comes to town?

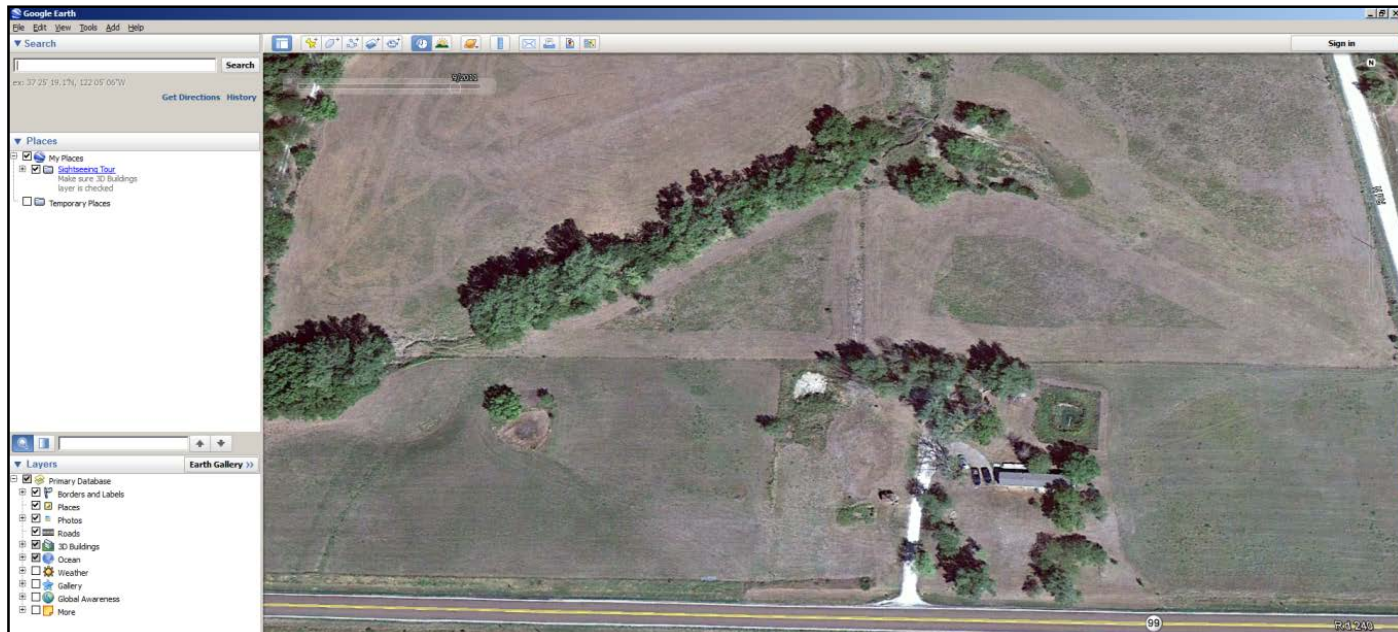
What is key to enforcement?



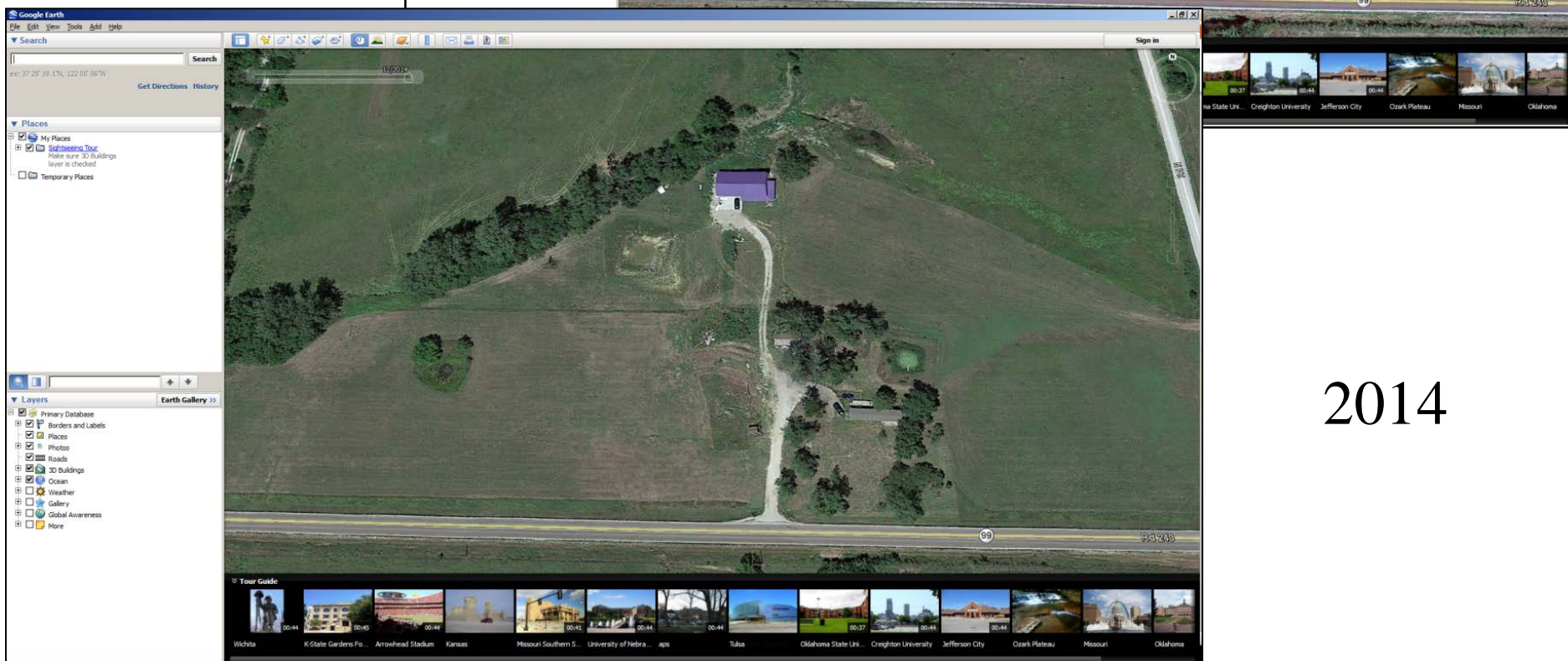
Do you look at GIS data, aerial photos or make maps before you visit a property?



2011



2014



Review files or building permit records?



Take lots and lots of photos.

What are
good
qualities
of an
establishing
shot?







Where do you stand when you are taking the picture?



Concerning unreasonable searches.

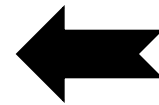
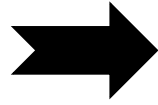
The 4th Amendment to the Constitution.

The 4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.



Now go
back to
this shot.



Then ask
about the
shed.

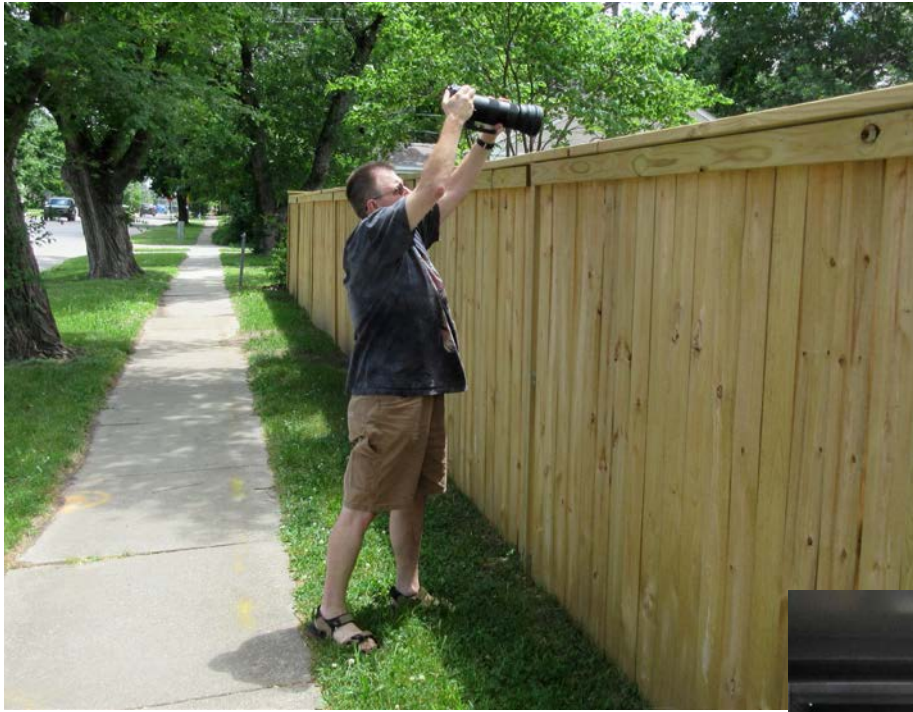
How will you take the photos?



Shed is behind a fence. You can see part of it.

A potential 4th
Amendment
issue.





Can you raise
your camera
above your
head?

Can you fly a
drone over the
backyard?



Is This a Violation?



Is This a Violation?



The Permit



Any development
without
all the required
Permits.



**WHAT DO
WE DO
NOW?**



Stop Work Order. Use when the work is in progress and there isn't a permit or conditions of permit aren't being followed.



12395-4

BUILDING INSPECTION DEPT.
STOP ORDER
Sec. 8-25 Sec. 169-170

Date Issued 04 JAN 12

Section 169 Stop work order. Whenever the building official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or other ordinance in the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

b. Description of real estate 109 SW 9th, Topeka

c. Reason issued MULTIPLE BLDG CONSTRUCTION WITHOUT PERMITS

d. Time to be corrected 3:00 PM

e. Served on (owner; agent; etc.) POSTED

f. Remedial action to be taken SUBMIT PLANS AND PULL REQUIRED PERMITS

Signature [Signature]

A stop work order should be issued if construction is taking place.



The violator will need to be notified of the violation. Suggest using certified mail followed up with a duplicate mailing affidavit.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <u>Steve Samuelson</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to: <u>Steve Samuelson</u> <u>1739 Road F #B</u> <u>Emporia, KS</u> <u>66801</u>		B. Received by (Printed Name) <u>Steve Samuelson</u>	C. Date of Delivery <u>4/9/12</u>
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		<u>7010 1870 0001 6337 649054B</u>	
PS Form 3811, August 2001		Domestic Return Receipt 102595-02-M-1540	

AFFIDAVIT OF MAILING

STATE OF KANSAS)
COUNTY OF NAME)

ss:

 Name of Floodplain Mgr , being of lawful age, being first duly sworn upon oath, deposes and say:

That on the day of month, year , affiant deposited a copy of the attached notifications in the United States mail, postage prepaid, and properly addressed to the following persons:

Name
Address
City, KS zip

Name
Address
City, KS zip

|
Further affiant sayeth naught.

Name and title printed here

Subscribed and sworn to before me this day of month, year .

Notary Public

Violation Letter or Letter of Allegation

- The location and nature of the alleged violation should be specified.
- Reference should be made to the floodplain ordinance/resolution and the specific sections that have been violated.
- Violator should be informed of possible fines and other possible actions.
- Violator should be informed of the desired response or action to be taken.
- Try not to make letter too technical.
Don't use acronyms.



Where do you send that letter?

- **Send to owner of record of the property.
Check with Register of Deeds.**
- **Can also request a Limited Certificate of Title through your attorney in some States. This document will cover history of ownership and any liens on the property?**
- **Why not just send the letter to the person who is living there?**
- **Should lien holders be copied on violation letters?**
- **What about tenants?**

Violation Letter is like a BLT

- Opening greeting (bread on top).
- Explain violation (first bacon layer).
- Citation (lettuce).
- Request meeting (middle bread slice).
- Explain consequences (second bacon layer).
- Rights to appeal (mayonnaise).
- Deadline date (tomato slices).
- Conclusion (bottom slice of bread).



Discussion

- Opening greeting (bread on top).
- Explain violation (first bacon layer).
- Citation (lettuce).
- Request meeting (middle bread slice).
- Explain consequences (second bacon layer).
- Deadline date (tomato slices).
- Conclusion (bottom slice of bread).

Phone: 617-234-1234

Email: sarah@floodplain.com

FIRST NOTICE

August 23, 2016

SENT TO
[Redacted]
[Redacted]

Re: Floodplain Development
To Whom It May Concern:

As of now, you are in **VIOLATION** of [Redacted] County Floodplain Management Regulations. To be able to continue the work on your property at [Redacted], parcel I.D. # [Redacted], you will need to obtain permitting or a determination from several different agencies.

Violation of the provisions of Resolution #25-10 or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute **a misdemeanor**. Any person who violates this Resolution or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than **\$1,000.00**, 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 [Redacted] County, KS or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

If you feel that your property is not in a floodplain then you will need to get a Letter of Map Amendment (LOMA) from FEMA. To do this we will need an Elevation Certificate.

If you would like to read the Floodplain Regulations about activities in the floodplain, you can find them at the Floodplain Management Office. The office is in room #101 at the Lyon County Courthouse.

Call the office if you have questions about how this process works or what could happen if the property remains in violation. Please do so within **30 DAYS** of the date on this letter.

If you feel you have received this letter in error, please notify this office.

Respectfully,

[Redacted Signature]
[Redacted], CFM
[Redacted] FPM

cc: file, Kansas Department of Water Resources, State NFIP Coordinator



All notices to the violator that request a response or action by the recipient should include a “response due” date.

- **Look at the violations section of your floodplain ordinance. See what provisions are set out in the ordinance for pursuing violations.**
- **What procedures are followed for violations of other types of local regulations?**

Fifth and Fourteenth Amendment contain a due process language.

The Constitution

We the People

of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

Article I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty

Thousand, but each State shall have at Least one Representative; and we chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Maryland six, Virginia ten, North Carolina five, South Carolina five,

When vacancies happen in the Representation from any State, the

The House of Representatives shall chuse their Speaker and other

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, elected by the People of the State, in which they shall have one Vote.

Immediately after they shall be assembled in Consequence of the of the Senators of the first Class shall be vacated at the Expiration of the Class at the Expiration of the sixth Year, so that one-third may be chosen at the Expiration of the sixth Year, so that one-third may be chosen at the Recess of the Legislature of any State, the Executive thereof may make such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate. The Senate shall chuse their other Officers, and also a President pro tempore of the Senate.

The Senate shall have the sole Power to try all Impeachments. When the United States is tried, the Chief Justice shall preside: And no Person shall be a Senator who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

Judgment in Cases of Impeachment shall not extend further than to remove the Person from Office, and he shall never be re-elected: but the Party convicted shall nevertheless be liable to Law.

14th Amendment

Section 1: No state may abridge the privileges and immunities of any of its citizens, or deny them due process of law or equal protection of the laws.

Section 2: When any state denies the right to vote at any election to any of its male citizens of voting age, its representation in elections for national offices will be reduced in the same proportion.

Violators must be given “due process”
– a reasonable opportunity to respond
or to take action.

The community should send a
minimum of two written notices (which
include a response/action due date)
before proceeding on to more harsh
actions such as fines or litigation.

Failing to inform violator of the right to
an appeal may be considered as
taking away from their right to “due
process”.

**Copy letters to your own State NFIP
Coordinator's Office.**

WANTED



**REWARD
FOR THE HIGH CRIME OF
FLOODPLAIN MANAGEMENT**

Meet with property owner.

- Be professional
- Be on time
- Body language
- Blame game
- Buy in to solution
- Explain what needs to happen very specifically

**My taxes
pay your
salary!**

**I'm gonna
have your
job!**

**I know
the Mayor!**



Reflective Listening.



Be willing to admit a mistake.



MISSTAKE

"More people would learn from their mistakes if they weren't so busy denying them"

TO ADMIT THAT
YOU WERE WRONG
IS TO DECLARE THAT
**YOU ARE
WISER NOW
THAN YOU
WERE BEFORE.**

**LEARN TO
ADMIT YOUR
MISTAKES
BEFORE SOMEONE
EXAGGERATES THE
STORY**



~Bruce Lee

Mistakes are always **forgivable**, if one has the **courage** to admit them.

A great man makes no mistakes.
A greater man admits them.

Questions?

Steve Samuelson
Kansas NFIP Coordinator
Steve.Samuelson@ks.gov

