

CHAPTER 8 – MUNICIPAL PLANNING

ARTICLE 1 – MUNICIPAL LIMITS

SECTION 8-101: MUNICIPAL LIMITS; DEFINED

All additions, lots, lands, subdivisions and parcels of ground included within the official municipal map and plat on file at the office of the county register of deeds, having been duly annexed to or made a part of this Village by act or ordinance of the Village Board or by law, or having been created either as the original townsite or as additions to the Village by the act, authority, acquiescence, consent, platting and dedication of their respective owners, are hereby declared to be within the corporate limits of the Village. Lawfully constituted additions or changes in said municipal limits shall be indicated upon said maps and plat by the city engineer after any such addition or change has been completed in accordance with the ordinances of this village and the laws of the State of Nebraska. ▫

SECTION 8-102: ORIGINAL PLATS

All plats, lots, blocks, additions, subdivisions, outlots and parcels of ground included within the corporate limits of the Village and not vacated of record prior to the enactment of this chapter, including the Original Plat of the Village, are hereby accepted, approved and confirmed as valid. All of said lots, blocks, additions, subdivisions and outlots as heretofore platted and recorded in the office of the county register of deeds and not heretofore vacated, and all other parcels of ground included within said corporate limits, are hereby declared to be within said village and an integral part thereof. ▫

ARTICLE 2 – SUBDIVISION REGULATIONS

SECTION 8-201: PURPOSE AND AUTHORITY

A. Purpose. To set forth rules for the division of real property so that each subdivision shall be properly coordinated with existing streets, utilities and other public facilities.

B. Authority. Neb. Rev. Stat. §17-415 et. seq. Revised Reissue Statutes, Nebr. 1943, as amended.

SECTION 8-202: APPLICABILITY AND FILING

A. Jurisdiction. The Village of Inglewood corporate limits.

B. Applicability. To all landowners who desire to divide, or who wish to either vacate streets or alleys; or who wish to dedicate land for public use; or for any combination of the above. These regulations shall not apply: to the division of land wherein the smallest parcel created is 10 acres or more; to conveyance of rights-of-way to or by public or private entities; to boundary alterations and to simple lot splits.

C. Filing. Any landowner wishing to divide land shall file a preliminary plat as herein described with the Village Clerk. The fee for this application shall be \$10 plus \$5 for each lot over one shown on the plat. The filing fee for a lot split or vacation shall be \$5. The village clerk shall issue a receipt for the application fee, shall schedule meetings with the Planning Commission and Village Board, and shall cause such notices to be posted or published as required by law.

SECTION 8-203: PROCEDURE FOR APPROVAL OF PLATS

A. The Planning Commission shall review the preliminary plat at an open public meeting and shall cause such changes as deemed necessary to comply with these regulations. If no such changes are required, the landowner will incorporate such changes as required on a final plat and request a meeting of the Planning Commission for final recommendation.

B. After review of the final plat, the Planning Commission shall recommend approval of the subdivision plat to the Village Board. The Village Board shall, upon receipt of written Planning Commission recommendation, schedule a public meeting for review and action on the plat. Failure by the Planning Commission to act on the plat within 40 days of original submission, or failure by the Village Board to act on the plat within 20 days of receipt of the Planning Commission recommendation, shall constitute approval of the plat, unless the subdivider shall consent to extend or waive the time limitation. Acceptance of the final plat by the Village Board shall constitute acceptance of all dedications shown in the final plat. If the Village Board

rejects the final plat, its reasons must be stated in writing and sent to the landowner. The landowner shall not resubmit a new subdivision proposal for at least six months from the date of the written rejection. The application and review process will be the same for all lot splits, all small or large subdivision tracts and all public dedication proposals.

SECTION 8-204: CONTENTS OF PLATS

A. All plats shall be drawn to scale of not less than one inch equals 200 feet; and shall show: location of lots, blocks, property lines, utilities, streets, required setback lines, spot elevations, all water courses and the natural drainage, easements, and land dedicated for park, playground, school facilities or other public purposes.

B. All plats shall identify: north direction, scale and date of drawing, subdivision name, location of reference to section corner, elevation and description of bench mark (vertical control) and other monuments to be set or reset, name of the surveyor or engineer, date of topographic survey, location and names of all streets adjacent to the subdivision, names of all streets to be created within the subdivision, names of all railroad or utility companies with rights-of-way or easements through the subdivision, how the land is zoned, the legal property description. All approved plats shall bear certifications as identified in the Appendix. Twelve copies of the preliminary and/or final plat shall be submitted to the Village Clerk at the time of application and shall be distributed to: the Planning Commission, Village Engineer, Department of Roads (if the subdivision is adjacent to a state highway), the appropriate fire, police, and health departments, relevant utility companies, school district, or other similar agency providing services in or near the subdivision. Agencies and persons named above shall return the plat, report, and recommendations to the Planning Commission within ten working days of receipt. If there is no response, the proposed plat shall be deemed to be in conformance with the laws, rules, or policies of the reviewing agencies. All requirements shall be drawn on a single sheet of paper of a size determined by the scale and nature of the subdivision.

SECTION 8-205: IMPROVEMENTS INSTALLATION

A. Before any lots are sold in the subdivision, all streets, street signs, sidewalks, available utilities and all drainage improvements must be provided through the subdivision. Improvements shall be made based on the contents of the approved plat, shall be approved by the Village Engineer, and shall be inspected by him/her during installation.

B. Fiscal sureties may be offered in lieu of actual installation and may consist of: (1) formal agreements with the Village; (2) a corporate completion bond; (3) escrow account; or (4) irrevocable letters of credit, all at the subdivider's expense, all in favor of the Village of Inglewood, and all of which will guarantee the provision

of all required improvements.

C. All nonconforming lots of record may be developed as per zoning ordinance provisions (Chapter 9, Article 6). Final plat approval shall be for 12 months, during which development of at least one lot shall take place. The entire plat shall be developed within five years.

SECTION 8-206: APPEALS, VARIANCES AND AMENDMENTS

A. Appeals. Any appeals from the Village Board action on plats or required improvements may be made to the district court of appeals.

B. Variances. The subdivider may request in writing a variance from any of the provisions of these regulations from any requirement made by the Planning Commission at the time of submission of its final plat to the Village Board. The Board shall act on such variances prior to acting on the final plat. Variances shall be viewed in terms of hardship caused by (in addition to financial encumbrances) or harmony with the intent of these regulations or, public health, safety or well being.

C. Amendments. Any member of the Planning Commission or Village Board may propose amendments to these regulations. Once proposed, the Planning Commission shall schedule and hold a public hearing after which it shall recommend in writing approval or denial of the proposed amendment to the Village Board. The Village Board shall then schedule and hold a public hearing after which it may adopt the amendment by ordinance.

SECTION 8-207: ADDITIONS INCORPORATED

All additions to this village which have heretofore been approved and accepted, or which may hereafter be laid out in accordance with the provisions herein and accepted and approved, shall be incorporated in this village for all purposes whatsoever. Inhabitants of such additions shall be entitled to all the rights and privileges and be subject to all the laws and regulations of said village. ▯

Source: Neb. Rev. Stat. §19-902

SECTION 8-208: DEFINITIONS

Any word or phrase which is defined in this section shall have the meaning assigned to it by this section whenever the word or phrase is used in these regulations.

“Block” shall mean a tract of land bounded by streets, or by a combination of streets, railway rights of way or waterways.

“Building Setback Line (Front)” shall mean the line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the fronting street right of way.

“Comprehensive Plan” shall mean the Comprehensive Development Plan as defined by Neb. Rev. Stat. §§ 19-903 and 23-114.02.

“County” shall mean the County of Dodge, Nebraska.

“Crosswalk” shall mean a strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.

“Design Standards or Design Requirements” shall mean all requirements and regulations relating to design and layout of subdivisions.

“Frontage” shall mean that portion of a lot, parcel, tract or block abutting upon a street.

“Frontage Lot” shall mean that portion of the frontage which lies between the side lot lines of a single lot.

“Improvements” shall mean all facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, business or manufacturing purpose. Improvements shall include all facilities listed in these regulations.

“Lot” shall mean a parcel or tract of land which is occupied by a structure together with the yards and other open spaces required by these regulations.

“Lot, Double Frontage” shall mean a lot which runs through a block from street to street and which has two non-intersecting sides, abutting on two or more streets.

“Lot, Depth” shall mean the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

“Lot Line” shall mean the boundary line of a lot.

“Lot Split” shall mean the dividing or redividing of a lot or lots in a recorded plat of a subdivision which meets the criteria established within these regulations.

“Lot Width” shall mean the distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

“Owner” shall mean any person or persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land sought to be subdivided under these regulations. (Also defines “landowner”)

“Planning Commission” shall mean the Inglewood Planning Commission.

“Plat” shall mean a subdivision as it is represented by a formal document of drawings and writing.

“Property Line” shall mean the boundary of any lot, parcel or tract as the same is described in the conveyance to the owner, and shall not include the streets or alleys upon which the said lot, parcel or tract may abut.

“Public or Central Water Supply System” shall mean a public water supply system which serves two or more residential units, two or more mobile home spaces in mobile home subdivisions or mobile home parks, two or more lots or properties located in platted subdivisions, or two or more industrial or commercial properties.

“Public or Central Sewerage System” shall mean a public sewerage system that is used or designed to be used for the collection and treatment (primary and secondary), and discharge of domestic sewage, industrial or commercial wastes from two or more residential units, two or more mobile home spaces in mobile home subdivisions or mobile home parks, two or more lots or properties located in platted subdivisions, or two or more industrial or commercial properties.

“Public Hearing” shall mean a hearing or meeting scheduled for the express purpose of acting on matters pertaining to these regulations and preceded by publicized notice in the legal newspaper as required by state law.

“Public Meeting” shall mean a meeting during which matters pertaining to these regulations may be scheduled as a part of the general business agenda of the Village of Inglewood.

“Replat” shall mean the subdivision of a tract of land which has previously been lawfully subdivided or the recording of a plat of a prior subdivision.

“Road or Roadway” shall mean the paved or improved area existing on the street right of way, exclusive of sidewalks, driveways or related uses.

“Screening” shall mean decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fencing or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet in height.

“Street” shall mean the street right of way or easement, whether public or private; not the area of the paving or other improvements on the street right of way, unless such paving or improvements coincide with the boundaries of such right-of-way.

“Street Width” shall mean the shortest distance between the property lines abutting both sides of a street right of way.

“Subdivider” shall mean the owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations for the purpose of subdividing land.

“Subdivision” shall mean the division of a lot, tract, or parcel of land into two or more sites, or other divisions of land for that purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the parcel of land created is more than ten acres of area.

“Turn-around” shall mean an area at the closed end of a dead-end street or cul-de-sac within which vehicles may reverse their direction without backing up.

SECTION 8-209: APPENDIX; CERTIFICATIONS

The following certification, which may be combined where appropriate, shall appear on the final approved plat:

1. Owner consent and date
2. Engineer or surveyor seal and date
3. Acknowledgment of a notary in the following form:

State of Nebraska)
) ss
County of Dodge)

Be it remembered that on this _____ day of _____, 20____, before me, a notary public in and for said County and State, came _____, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

(Seal)

Notary Public

My commission expires _____.

4. The certificate of the Planning Commission in the following form:

This plat of _____ has been submitted to and approved by the Inglewood Planning Commission and is hereby transmitted to the Village Board of Inglewood, Nebraska, with the rec-

ommendation that such plat be approved as proposed.

Dated this _____ day of _____, 20____.

Chairman

Secretary

5. Approval by the Village Board in the following form:

The plat and the dedications shown on this plat are hereby accepted by the Village Board this _____ day of _____, 20____.

Chairman, Village Board

Attest:

Village Clerk

6. A blank space for noting entry on the transfer record in the following form:

Entered on transfer record this _____ day of _____, 20____.

County Clerk

7. The certificate of the register of deeds in the following form:

State of Nebraska)
) ss
County of Dodge)

This is to certify that this instrument was filed for record in the office of the register of deeds on the _____ day of _____, 20____, at _____ o'clock _____.M. and is duly recorded of record.

Register of Deeds

ARTICLE 3 – FLOODPLAIN REGULATIONS

SECTION 8-301: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

A. **STATUTORY AUTHORIZATION.** The Legislature has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. Nebraska 1943 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the Village Board of the Village of Inglewood ordains as follows: ▫

B. FINDINGS OF FACT.

1. **Flood Losses Resulting from Periodic Inundation.** The flood hazard areas of the Village are subject to inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. ▫
2. **General Causes of the Flood Losses.** These flood losses are caused by (a) the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities, and (b) the occupancy of flood hazard areas by uses which are inadequately elevated or otherwise unprotected from flood damages and thus vulnerable to floods or hazardous to others. ▫
3. **Methods Used to Analyze Flood Hazards.** This ordinance uses a reasonable method of analyzing flood hazards, which consists of a series of interrelated steps: ▫
 - a. Selection of a regulatory flood based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance and is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study and illustrative materials dated August, 1978, as amended. ▫
 - b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and over

- bank areas to convey the base flood. ▫
- c. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point. ▫
- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile. ▫
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood. ▫

C. **STATEMENT OF PURPOSE.** It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in subsection B(1) above by applying the provisions of this ordinance to: ▫

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities. ▫
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction. ▫
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard. ▫
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program. ▫

SECTION 8-302: GENERAL PROVISIONS

A. **LANDS TO WHICH ORDINANCE APPLIES.** This ordinance shall apply to all lands within the jurisdiction of the Village of Inglewood, Nebraska, identified on the Flood Insurance Rate Map (FIRM) for the City of Fremont, Nebraska, Panel No. 0002 C, dated effective February 1, 1979; and, the Preliminary Dodge County, Nebraska, and incorporated areas (FIRM) Panel No. 0395 and Panel No. 0415, and Preliminary Flood Insurance Study dated September 29, 2006, as best available data, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 8-304 of this ordinance. In all areas covered by this ordinance, no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Planning Commission of the Village or its duly designated representative under such safeguards and restrictions as the Planning Commission or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 8-305, 8-306, and 8-307.

B. DESIGNATION OF ENFORCEMENT OFFICER, PLANNING COMMISSION, AND APPEAL BOARD.

1. The chairman of the Village Board is hereby designated as the Village's duly designated enforcement officer under this ordinance. He/she shall be responsible for (a) coordinating applications and reviewing same before submission to the Planning Commission for approval, (b) coordinating the provisions of this ordinance with all other federal, state and municipal agencies and administrators, and (c) interpreting this ordinance and all related rules and regulations pertaining thereto. ▫
2. The Planning Commission is hereby designated as the Village's duly designated governing body under this ordinance and shall be responsible for reviewing all permit application and approving or disapproving same. ▫
3. The Village Board is hereby designated as the Village's duly designated Appeal Board under this ordinance. It shall be responsible for resolving any interpretation by the enforcement officer that is contested, and for deciding any appeal made of any decision or approval or disapproval made by the Planning Commission. ▫

C. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official Zoning Map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Appeal Board 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/her case to the Appeal Board and to submit his/her own technical evidence, if so desired. ▫

D. COMPLIANCE. Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. ▫

E. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only. ▫

F. INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Planning Commission and shall not be deemed a limitation or repeal of any other powers granted by state statutes. ▫

G. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this ordinance 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 ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of Village or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder. ▫

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

I. APPEAL. Where a request for a permit to develop or a variance is denied by the Planning Commission, the applicant may apply for such permit or variance directly to the Appeal Board. ▫

SECTION 8-303: DEVELOPMENT PERMIT

A. PERMIT REQUIRED. No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 8-312. ▫

B. ADMINISTRATION.

1. The enforcement officer is hereby appointed to administer and implement the provisions of this ordinance. ▫
2. Duties of the enforcement officer shall include, but not be limited to: ▫
 - a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied. ▫
 - b. Review applications 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. ▫

- c. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. ▫
- d. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. ▫
- e. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. ▫
- f. 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 in special flood hazard areas. ▫
- g. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed. ▫
- h. When floodproofing is utilized for a particular structure, the enforcement officer shall be presented certification from a registered professional engineer or architect. ▫
- i. Submit all completed applications to the Planning Commission for approval or disapproval. ▫

C. APPLICATION FOR PERMIT. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall: ▫

- 1. Identify and describe the development to be covered by the floodplain development permit. ▫
- 2. Describe the land on which the proposed development 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 development. ▫
- 3. Indicate the use or occupancy for which the proposed development is intended. ▫
- 4. Be accompanied by plans and specifications for proposed construction. ▫
- 5. Be signed by the permittee or his/her authorized agent, who may be required to submit evidence to indicate such authority. ▫
- 6. Give such other information as reasonably may be required by the enforcement officer or the Planning Commission. ▫

SECTION 8-304: ESTABLISHMENT OF ZONING DISTRICTS

Along watercourses where a floodway has been established, the mapped floodplain

areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study and accompanying map(s). Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. ▫

SECTION 8-305: STANDARDS FOR FLOODPLAIN DEVELOPMENT

A. No permit for development shall be granted for new construction, substantial improvements and other development(s), including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this section are satisfied. ▫

B. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of Section 8-306. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources. ▫

C. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one foot at any location as shown on the Flood Insurance Study. ▫

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

1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. ▫
2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination. ▫
3. Construction with materials 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 dur-

ing conditions of flooding. ▫

4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation. ▫

E. Storage of Material and Equipment. The storage or processing of materials that are buoyant, flammable, explosive, or that could be injurious to human, animal or plant life in time of flooding is prohibited. 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, be required to assure 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 subdivision) of five acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation. ▫

SECTION 8-306: FLOOD FRINGE OVERLAY DISTRICT (INCLUDING AO AND AH ZONES)

A. PERMITTED USES. Any use permitted in Section 8-307 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 8-305 are met. ▫

B. STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT.

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation. ▫
2. Require new construction or substantial improvements of non-residential structures 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 that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the chairman as local administrator as set forth in Section 8-303(B)(2)(f). ▫

3. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. 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 not 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. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. ▫

5. 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 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 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 or substantially improved within special flood hazard areas on the community's FIRM on sites: ▫

- i. Outside of a manufactured home park or subdivision, ▫
 - ii. In a new manufactured home park or subdivision, ▫
 - iii. In an expansion to an existing manufactured home park or subdivision, or ▫
 - iv. In an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection B(5)(a) above. ▫
- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of subsection B(5)(b) above be elevated so that either: ▫
 - i. The lowest floor of the manufactured home is at or above one foot above the base flood elevation, or ▫
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection B(5)(a) above. ▫
- 6. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (a) be on the site for fewer than 180 consecutive days, (b) be fully licensed and ready for highway use, or (c) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. ▫
- 7. Located within the areas of special flood hazard established in Section 8-302(A) are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones: ▫
 - a. All new construction and substantial improvements of residential

structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified). ▫

- b. All new construction and substantial improvements of non-residential structures shall: ▫
 - i. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or ▫
 - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 8-303(B)(2)(f). ▫
- c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. ▫

SECTION 8-307: FLOODWAY OVERLAY DISTRICT

A. PERMITTED USES. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District: ▫

- 1. Agricultural uses such as general farming, pasture, nurseries, forestry. ▫
- 2. Residential uses such as lawns, gardens, parking and play areas. ▫
- 3. Non-residential areas such as loading areas, airport landing strips and parking. ▫
- 4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. ▫

B. STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT. New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 8-305 and 8-306. In Zone A un-

numbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or Section 8-305(F)(4) of this ordinance, in meeting the standards of this section. ▫

SECTION 8-308: VARIANCE PROCEDURES

A. The Appeal Board established by this ordinance shall hear and decide appeals and requests for variances from the requirements of this ordinance. ▫

B. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the enforcement officer or the Planning Commission in the enforcement or administration of this ordinance. ▫

C. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943 (as amended). ▫

D. In passing upon such applications, the Appeal Board shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and: ▫

1. The danger that materials may be swept onto other lands to the injury of others; ▫
2. The danger to life and property due to flooding or erosion damage; ▫
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner; ▫
4. The importance of the services provided by the proposed facility to the community; ▫
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; ▫
7. The compatibility of the proposed use with existing and anticipated development; ▫
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; ▫
9. The safety of access to the property in times of flood for ordinary and emergency vehicles: ▫
 - a. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and ▫
 - b. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges. ▫

E. CONDITIONS FOR VARIANCES.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections 2 through 6 below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases. ▫
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. ▫
3. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result. ▫
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. ▫
5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances. ▫
6. The applicant shall be given a written notice over the signature of a community official that (a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance. ▫

SECTION 8-309: NONCONFORMING USE

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the

provisions of this ordinance may be continued subject to the following conditions: ▫

1. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The utility departments shall notify the chairman as local administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months. ▫
2. Uses or adjuncts thereof that 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% of the market value of the structure before the damage occurred, except 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 that the alteration shall not preclude its continued designation. ▫

SECTION 8-310: PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day that such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village or other appropriate authority from taking such other lawful action as is as necessary to prevent or remedy any violation. ▫

SECTION 8-311: AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided 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 Village. At least 7 days shall elapse between the date of such publication and the public hearing. A copy of such amendment(s) will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act. ▫

SECTION 8-312: DEFINITIONS

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

"Appeal" means a request for a review of the enforcement officer's interpretation as local administrator, or the Planning Commission's approval or disapproval, of any provision of this ordinance or a request for a variance. ▫

"Appeal Board" means the Board of Trustees of the Village. ▫

"Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. ▫

"Base Flood" means the flood having one percent chance of being equaled or exceeded in any given year. ▫

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides. ▫

"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 or storage of equipment or materials. ▫

"Enforcement Officer" means the chairman of the Village Board, also known as the "local administrator." ▫

"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 FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures." ▫

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community. ▫

"Expansion to an Existing Manufactured Home Park or Subdivision" means the

preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). ▫

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (A) the overflow of inland or tidal waters or (B) the usual and rapid accumulation of runoff of surface waters from any source. ▫

"Flood 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 chance of flood occurrence in any one year). ▫

"Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community. ▫

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood. ▫

"Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. ▫

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

"Governing Body" means the Planning Commission of the Village. ▫

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. ▫

"Historic Structure" means any structure that is: (A) listed individually in the National Register of Historic Places, a listing maintained by the Department of the Interior (DOI) or preliminarily determined by the secretary of DOI as meeting the requirements for individual listing on the National Register; (B) certified or preliminarily de-

terminated by the secretary of DOI 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; (C) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of DOI; or (D) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the secretary of DOI or (2) directly by the secretary of DOI in states without approved programs. ▫

"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 ordinance. ▫

"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." ▫

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. ▫

"New Construction" For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. ▫

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. ▫

"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. ▫

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground. ▫

"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 projections; (C) designed to be self-propelled or permanently towable by a light duty truck; and (D) de-

signed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. ▫

"Special Flood Hazard Area" is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year. ▫

"Start of Construction" [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building. ▫

"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. ▫

"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% of the market value of the structure before the damage occurred. ▫

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (A) 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 (B) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." ▫

"Variances" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance

where specific enforcement would result in unnecessary hardship. ▫

"Violation" means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. ▫

ARTICLE 4 – PENAL PROVISION

SECTION 8-401: VIOLATION; PENALTY

Any person, whether as owner or proprietor or as the agent, attorney or representative of any owner or proprietor of land who shall plat or subdivide any tract of land within the corporate limits of the Village or adjoining or contiguous to the same, except as herein authorized, or who shall sell, transfer, deed or convey, contract or agree to sell, transfer or offer for sale any lot or piece of ground in any addition or subdivision of three or more parts within said corporate limits or adjoining or contiguous thereto, without having first obtained the acceptance and approval of the Village Board for such plat or map. Any person who shall violate or who shall fail, neglect or refuse to comply with any of the provisions previously stated herein, as now existing or as hereafter amended shall, upon conviction, be fined in any sum not exceeding \$500.00. ▫

