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CHAPTER 9 – BUILDING REGULATIONS

Article 1 – Building Inspector

SECTION 9-101: POWERS AND AUTHORITY

When necessary, the Village Board shall appoint or hire a building inspector, who shall be the village official having the duty of enforcing all building and housing regulations as herein prescribed. The village engineer or another person experienced in building construction practices, the code enforcement officer designated in Section 1-410, or another person may be appointed as building inspector. The duties of the building inspector shall be as follows:

A. He or she shall have the authority to carry out the duties as stated in the Dangerous Buildings Regulations in Chapter 3, Article 5, Section 3-502 herein.

B. He or she shall inspect all buildings repaired, altered, built, or moved in the Village as often as necessary to ensure compliance with all village ordinances and is authorized, upon properly identifying himself or herself, to enter, inspect, survey, and investigate between the hours of 8:00 a.m. and 5:00 p.m. or at any time if an emergency exists or if requested by the owner or occupant thereof. He or she shall also investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists.

C. He or she shall have the power and authority to order all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the Village Board, issue permission to continue any construction, alteration, or relocation when the board is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by the chairman or designated agent.

D. He or she shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner; and he or she shall not act as an agent for any said dealer or as an agent for the sale, lease, or rental of any real estate.

E. He or she shall keep records of all complaints received, inspection reports, orders, and complaints issued, which shall be available for public inspection.

F. He or she shall report to the Village Board as often as may be deemed necessary and shall have such other duties as the board may direct.

SECTION 9-102: RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into

any building or structure where the work of construction, alteration, repair, or relocation is taking place, for the purpose of making official inspections, at any reasonable hour.

SECTION 9-103: TIME OF INSPECTION

A. The building inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the municipal code:

1. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
2. Frame inspection shall be made after the roof, framing, fire-blocking, and backing are in place and all pipes, chimneys, and vents are complete; and
3. Final inspection shall be made after the building is completed and ready for occupancy.

B. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

SECTION 9-104: APPEAL FROM DECISION

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector, that the time allowed for compliance with any order of the building inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the requirements prescribed by this chapter and by the building inspector, the owner, his or her agent, or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Village Board shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation are assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

SECTION 9-105: BARRICADES AND LIGHTS

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the Village to have all excavations,

open basements, building materials, and debris protected by suitable guards or barricades by day and by warning lights at night during the time that such work is in progress. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the building inspector shall stop all work until guards are erected and maintained as required.

Article 2 – Building Permits

SECTION 9-201: APPLICATION

A. Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling or cause the same to be done including but not limited to a lawful burning pursuant to Neb. Rev. Stat. §28-506, shall file with the village clerk an application for a building permit. The application shall be in writing on a form to be furnished by the clerk. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon.

B. The application, plans, and specifications filed with the village clerk shall be checked and examined by the building inspector and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the inspector shall authorize the village clerk to issue the said applicant a permit upon payment of the permit fee set by resolution of the Village Board. Standard permit fees shall, however, apply only in the case of on-time (before construction) filings. Any application filed after construction has commenced shall pay a fee that is four times the standard fee. A majority vote of the Village Board is needed for approval any building permit application.

C. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

(Neb. Rev. Stat. §§17-130 through 17-132, 17-550, 17-1001)

SECTION 9-202: LIMITATION

If the work for which a permit has been issued shall not have begun within six months of the date thereof or if the construction is discontinued for a period of six months, the permit shall be void. Before work can be started or resumed, a new permit shall be obtained in the same manner and form as an original permit.

SECTION 9-203: DUPLICATE TO COUNTY ASSESSOR

Whenever a building permit is issued for the erection, alteration, or repair of any building within the Village's jurisdiction and the improvement is \$2,500.00 or more, a duplicate of such permit shall be filed with the county assessor by the village clerk. (Neb. Rev. Stat. §18-1743)

SECTION 9-204: BOND REQUIREMENT

It shall be the duty of the owner, lessee or tenant intending the destruction of any building or improvement to post a \$1,000.00 cash bond with the village clerk prior to

such destruction. This bond will be refunded upon removal of all nuisances which result from the destruction. In the event that a nuisance remains on the building permit site for more than six months after the issuance of the building permit, then the bond shall be forfeited and shall be applied to offset the cleanup by the Village.

SECTION 9-205: BUILDING WITHOUT PERMIT; NUISANCE

Every building or other structure hereafter erected, remodeled or moved into or within said village without a permit therefor, as herein required, or which is not constructed, remodeled or located in accordance with the permit granted and issued therefor, shall be deemed and considered to be a public nuisance and may be abated or removed by the Village at the expense of the owner.

Article 3 – Building Moving

SECTION 9-301: REGULATIONS

A. It shall be unlawful for any person, firm, or corporation to move any building or structure within the Village without a written permit to do so. Application may be made to the village clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Village Board may require. The application shall be accompanied by (1) a certificate issued by the county treasurer to the effect that all provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located and (2) a good and sufficient corporate surety bond, check, or cash in an amount set by resolution of the board and conditioned upon moving said building without doing damage to any private or public property. The village clerk shall refer the said application to the Village Board and upon approval, the clerk shall issue the said permit, which shall limit the time of removal and shall specify the route to be followed in moving the building over and across the streets and public ways of the Village. It shall be unlawful for any licensee to digress from such time or specified route without the written consent of the chairman.

B. No moving permit shall be required to move a building that is 10 feet wide or less, 20 feet long or less and, when in a position to move, 15 feet high or less.
(Neb. Rev. Stat. §§60-6,228 through 60-6,291, 60-6,294, 60-6,298 through 60-6,301)

SECTION 9-302: UTILITIES

A. In the event it will be necessary for any licensed building mover to interfere with poles, wires, gas mains, pipelines, and other appurtenances, the company or companies owning, using, or operating the said appurtenances shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires, gas mains, pipelines, and other appurtenances relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise.

B. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Village, notice in writing of the time and route of the said building moving operation shall be given to the utility superintendent, who shall proceed on behalf of the Village and at the expense of the mover to make such disconnections and do such work as is necessary.

SECTION 9-303: COMPLETION OF MOVE

At such time as the building moving has been completed, the street commissioner shall inspect the premises and report to the village clerk as to the extent of damages, if any, resulting from the said relocation and whether any village laws have been violated

during the said operation. Upon a satisfactory report from the street commissioner, the clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event any basement, foundation, or portion thereof is not properly filled, covered or left in a clean and sanitary condition, the Village Board may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit, the board may recover such excess expense by civil suit or otherwise as prescribed by law.

Article 4 – Floodplain Regulations

SECTION 9-401: ENFORCEMENT OFFICIAL; RESPONSIBILITIES

The village clerk hereby has these added responsibilities by resolution of the Village Board and his or her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the clerk, the Village Board shall designate an acting administrator.

SECTION 9-402: FLOOD HAZARD BOUNDARY MAP; FLOOD INSURANCE RATE MAP

The Board of Trustees hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map and amendments thereto, a copy of which is available for inspection in the office of the village clerk, as the official map to be used in determining those areas of special flood hazard.

SECTION 9-403: PERMIT REQUIRED

No person, firm or corporation shall erect, construct, enlarge or improve any building or structure in the Village or cause the same to be done without first obtaining a separate development permit for each building or structure.

A. Permits. Within special flood hazard areas on the official map, separate development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

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

1. Identify and describe the work to be covered by the permit for which application is made.
2. 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.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his or her authorized agent, who may be required to submit evidence to indicate such authority.
6. Within designated flood-prone areas, be accompanied by elevations of the lowest floor (including basement) or in the case of floodproofed nonresi-

dential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the clerk.

7. Give such other information as reasonably may be required by the clerk, i.e., require a statement from the applicant that he or she is aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of nonresidential floodproofing when a minus one foot penalty is assessed at the time of rating the structure for the policy premium.

SECTION 9-404: REVIEW OF PERMIT APPLICATIONS

The clerk shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal or state laws. The clerk, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments (as defined in Section 9-407 of this article) will:

A. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from federal, state or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone (A) on the official map that the following performance standards be met:

1. Conditions. Until a floodway has been designated, no development or substantial improvement may be permitted within the identified floodplain 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 100-year flood more than one foot at any location.
2. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation.
3. Nonresidential Construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structure 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 local enforcement official.

4. Require for 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.

B. Require the use of construction materials that are resistant to flood damage.

C. Require the use of construction methods and practices that will minimize flood damage.

D. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

E. New structures be constructed 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.

F. Assure that all manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with state laws, building codes of the Village and 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:

1. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
2. 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.
3. All components of the anchoring system be capable of carrying a force of

4,800 pounds.

4. Any additions to manufactured homes be similarly anchored.

G. Require that all manufactured homes to be placed within special flood hazard areas on the community's official map on sites (1) outside of a manufactured home park or subdivision, (2) in a new manufactured home park or subdivision, (3) in an expansion to an existing manufactured home park or subdivision, or (4) in an existing manufactured home park or subdivision on 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 one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (F) above.

H. Assure 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 official map that are not subject to the provisions of subsection (G) above be elevated so that either:

1. The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
2. 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 (F) above.

I. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this article. 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.

SECTION 9-405: SUBDIVISION APPLICATIONS

The trustees of the Village shall review all subdivision applications and other proposed new developments, including manufactured home parks or subdivisions, and shall make findings of fact and assure that:

A. All such proposed developments are consistent with the need to minimize flood damage.

B. Subdivision proposals and other proposed new developments (including pro-

posals for manufactured home parks and subdivisions) greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All public utilities and facilities are located so as to minimize or eliminate flood damage.

SECTION 9-406: NEW WATER AND SEWER SYSTEMS

New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

SECTION 9-407: STORAGE OF MATERIAL AND EQUIPMENT

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. 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.

SECTION 9-408: MAINTAINING FLOOD-CARRYING CAPACITY

The Board of Trustees will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The Village will notify, in riverine situations, adjacent communities and the Nebraska State Coordinating Office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the Village will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973, as amended from time to time.

SECTION 9-409: VARIANCE PROCEDURES

A. The Village Board shall hear and decide appeals and requests for variances from the requirements of this article. The Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the clerk in the enforcement or administration of this article. Any person aggrieved by the decision of the Village Board or any taxpayer may appeal such decision to the District Court as provided in Neb. Rev. Stat. §19-912.

B. In passing upon such applications, the Village Board shall consider all technical evaluation, all relevant factors, standards specified in other sections of this article, 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;
10. 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;
11. 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.

C. 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 items (2) through (5) 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 char-

acter and design of the structure.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. 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.
5. 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 base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and (b) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

SECTION 9-410: 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 article may be continued subject to the following conditions:

1. If such use is discontinued for 24 consecutive months, any future use of the building premises shall conform to this article. The utility department shall notify the clerk in writing of instances of nonconforming uses where utility services have been discontinued for a period of 24 months.
2. Uses or adjuncts thereof which 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 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, provided that the alteration shall not preclude its continued designation.

SECTION 9-411: PENALTIES FOR VIOLATION

A. 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 \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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

SECTION 9-412: ABROGATION AND GREATER RESTRICTIONS

A. 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 \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

B. Nothing herein contained shall prevent the building inspector or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 9-413: INTERPRETATION

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

SECTION 9-414: 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 manmade 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 damages. This article shall not create liability on the part of the Village or any officer or employee thereof for any flood damages that may result from reliance of this article or any administrative decision lawfully made thereunder.

SECTION 9-415: 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 9-416: APPEAL

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

SECTION 9-417: CONFLICTING ORDINANCES/RESOLUTIONS

This article shall take precedence over conflicting ordinances and resolutions or parts of ordinances and resolutions. The Village Board may, from time to time, amend this article to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this ordinance/resolution 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 Floodplain Management Act.

SECTION 9-418: DEFINITIONS

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

"100-year flood" means the condition of flooding having a 1% chance of annual occurrence.

"Base flood" means the flood having 1% 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.

"Développement" 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.

"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 of existing manufactured home park or subdivision" 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" shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from (A) the overflow of inland or tidal waters; (B) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood insurance rate map (FIRM)" means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.

"Floodproofing" shall mean any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" means the channel of the 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 a designated height.

"Historic structure" means any structure that is: (A) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (B) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; 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 the interior or (2) directly by the secretary of the interior in states without approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistance 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" shall mean 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 connected to the required utilities. "Manufactured home" does not include a recreational vehicle.

"Manufactured home park or subdivision" shall mean a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

"New construction" for flood management purposes means structures for which the start of construction commenced on or after the effective date of the floodplain management regulations 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.

"Principally aboveground" means that at least 51% of the actual cash value of the structure is aboveground.

"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.

"Regulatory flood elevation" shall mean the water surface elevation of the 100-year flood.

"Special flood hazard area" shall mean the land within a community subject to a 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)] including 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" shall mean 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" shall mean any repair, reconstruction or 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 profit 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."

"Variance" means a grant of relief to a person from the terms of a floodplain management ordinance.

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

(Ord. No. _____, 19____)

Article 5 – Penal Provision

SECTION 9-501: VIOLATION: PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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