

CHAPTER 9 – BUILDING REGULATIONS

ARTICLE 1 – GENERAL BUILDING REGULATIONS

- 9-101 BUILDING INSPECTOR**
- 9-102 BUILDING PERMIT REQUIRED**
- 9-103 BUILDING WITHOUT PERMIT; NUISANCE**
- 9-104 PERMIT LIMITATION**
- 9-105 APPLICATION FOR PERMIT**
- 9-106 APPROVAL OF PLAT AND ACCOMPANYING PLANS**
- 9-107 PERMIT FEES**
- 9-108 PUBLIC BUILDINGS**
- 9-109 GOVERNMENTAL BUILDINGS**
- 9-110 INSPECTION RECORD CARD**
- 9-111 CONSTRUCTION WITHOUT PERMIT**
- 9-112 REVOCATION OF PERMIT**
- 9-113 APPEAL**

ARTICLE 2 – BUILDING CODES

- 9-201 BUILDING CODE; ADOPTED BY REFERENCE**
- 9-202 ELECTRICAL CODE; ADOPTED BY REFERENCE**
- 9-203 PLUMBING CODE; ADOPTED BY REFERENCE**
- 9-204 GAS CODE; ADOPTED BY REFERENCE**
- 9-205 HOUSING CODE; ADOPTED BY REFERENCE**
- 9-206 MINIMUM LIGHTING AND THERMAL EFFICIENCY STANDARDS**

ARTICLE 3 – PREBUILT HOMES

- 9-301 DEFINITION**
- 9-302 REQUIREMENTS**

ARTICLE 4 – BUILDING MOVING

- 9-401 PERMIT REQUIRED; FEE, BOND**
- 9-402 NOTICE REQUIRED**
- 9-403 NO GENERAL PERMITS**

ARTICLE 5 – FLOODPLAIN REGULATIONS

- 9-501 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES**
- 9-502 LOCAL ADMINISTRATOR RESPONSIBILITIES**
- 9-503 DESIGNATION OF CURRENT FHBM/FIRM**
- 9-504 PERMITS REQUIRED**
- 9-505 DEVELOPMENT PERMIT APPLICATIONS REVIEW**

- 9-506 ALL APPLICATIONS REVIEW**
- 9-507 SUBDIVISION APPLICATIONS**
- 9-508 WATER AND SEWAGE SYSTEMS**
- 9-509 STORAGE OF MATERIAL AND EQUIPMENT**
- 9-510 FLOOD-CARRYING CAPACITY WITHIN ANY WATERCOURSE**
- 9-511 VARIANCE PROCEDURES**
- 9-512 NON-CONFORMING USE**
- 9-513 PENALTIES FOR VIOLATION**
- 9-514 ABROGATION AND GREATER RESTRICTIONS**
- 9-515 INTERPRETATION**
- 9-516 WARNING AND DISCLAIMER OF LIABILITY**
- 9-517 SEVERABILITY**
- 9-518 APPEAL**
- 9-519 CONFLICTING ORDINANCES**
- 9-520 DEFINITIONS**

ARTICLE 6 – PENAL PROVISION

- 9-601 VIOLATION; PENALTY**

CHAPTER 9 – BUILDING REGULATIONS

Article 1 – General Building Regulations

SECTION 9-101: BUILDING INSPECTOR

A. The village building inspector shall be the Merrick County building inspector, who shall have all the rights, duties, powers, authority, obligations, and incidents of office as an appointed building inspector. The Village Board shall from time to time enter into agreements with Merrick County to use said county building inspector as the duly appointed and authorized building inspector for the Village.

B. The building inspector shall regulate and inspect all construction, repairs and alterations for compliance with Nebraska statutes and village building rules and regulations, using as guidelines the various building codes as adopted by the Village in Article 2 of this chapter. He shall inspect all work as the building or reconstruction operation progresses, giving written approval of each step on the inspection record card as provided in Section 9-110.

C. Said building inspector shall have the power to issue permits for construction, repairs and alterations within said village and shall have the power and authority to order all work stopped on any construction, repair or alteration which violates any provision prescribed herein.

D. 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 9-102: BUILDING PERMIT REQUIRED

It shall be unlawful to construct or alter any building or structure in the village limits without first having procured a written permit from the Village; provided, however, that gas inspections shall be made by the gas company and applications for the same shall be made to said company.

SECTION 9-103: BUILDING WITHOUT PERMIT; NUISANCE

Every building or other structure hereafter erected, remodeled or moved into or within the Village without a permit 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.

SECTION 9-104: PERMIT LIMITATION

If the work for which a permit has been issued has not begun within six months of the date thereof or if the construction has been discontinued for a period of six months, the permit shall be void. Before such work can be resumed, a new permit shall be obtained in the same manner and form as an original permit; provided, before the expiration of one year from issuance of the permit, the permit holder may request from the Village Board an extension for a definite period of time to complete such work and the Board may grant the extension for cause.

SECTION 9-105: APPLICATION FOR PERMIT

Application for such permit shall be made to the building inspector in writing upon a form provided by the Village and shall be accompanied by a plat in duplicate showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building or buildings to be erected and such other information as may be necessary to provide for the enforcement of this chapter.

SECTION 9-106: APPROVAL OF PLAT AND ACCOMPANYING PLANS

Such application with the duplicate plat, plans and specifications attached shall be referred to the building inspector, who shall examine the same to determine whether the proposed construction or alteration will comply strictly with this chapter and all other provisions of this code relative thereto. On approval, one set of plans shall be returned to the applicant with written directions that a permit shall be granted and the other set of plans shall be retained by the said building inspector for use in inspection of building operations. No permit shall be issued until after the approval of said plat, plans and specifications.

SECTION 9-107: PERMIT FEES

A. A fee for each building permit shall be paid to the village clerk as hereinafter prescribed. The determination of value or valuation under any of the provisions of this code shall be made by the building inspector, whose determination shall be final. Where work for which a permit is required by this code is started prior to obtaining the permit, the fee specified shall be doubled but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein.

B. Fees shall be based on the valuation of the improvement at a rate per each \$1,000.00 of valuation to be set by motion of the Village Board from time to time and shall be on record at all times with the village clerk; provided, however, a minimum fee shall always be charged. All construction or work for which a permit is required shall be subject to such number of inspections as may be prescribed by the building inspector and all work shall conform to provisions of this code in all respects; provided, however, nothing herein shall be construed to authorize the building inspector to

enforce zoning regulations of the Village or to assign house numbers to new dwellings.

SECTION 9-108: PUBLIC BUILDINGS

In addition to all other construction requirements, every factory, workshop, or business where one or more persons are employed shall be constructed in such a way as will comply fully with all provisions of state law relating to the construction of public buildings. (Neb. Rev. Stat. §48-401 through 48-442)

SECTION 9-109: GOVERNMENTAL BUILDINGS

All buildings and facilities used by the public which were constructed with the use of funds of any political subdivision, including the Village, shall be constructed in such a way as will comply fully with all provisions of state law relating to the construction of governmental buildings. (Neb. Rev. Stat. §72-1101 through 72-1119)

SECTION 9-110: INSPECTION RECORD CARD

Work requiring a building permit shall not be commenced until the permit holder or his/her agent shall have posted an inspection record card in a conspicuous place on the front premises and in such a position as to allow the building inspector conveniently to make the required entries thereon regarding inspection of the work. The card shall be maintained in such position until the completion of the job. No work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the written approval of the building inspector. Such written approval shall be given only after an inspection shall have been made of each successive step in the construction as determined by the building inspector.

SECTION 9-111: CONSTRUCTION WITHOUT PERMIT

It shall be unlawful for any contractor or any other persons engaged in the actual work of constructing or altering a building or other structure within the Village to proceed with the work until he/she knows positively that the owner has obtained a building permit as herein provided. The Police Department shall order cessation of any work so started before issuance of such permit. Any violator of the provisions of this article shall be guilty of a misdemeanor. Each and every day that such violation continues shall constitute a separate offense.

SECTION 9-112: REVOCATION OF PERMIT

A. A permit for the construction, reconstruction, or alteration of any building or structure may be revoked by the building inspector at any time prior to the completion of the building or structure for which the same was issued, when it shall satisfactorily appear that (1) the construction work departs from the plans, specifications, or condi-

tions as required under the terms of the permit; (2) the permit was procured by false representations or was issued by mistake; or (3) any provisions of this chapter or any other provisions of this code are being violated.

B. Notice of the revocation of said permit shall be given to the person conducting such building operations, either by handing the same to the person in charge of the operations or mailing it to him/her by U.S. Mail at the address given in the application for the permit. Upon the revocation of such permit, all building operations shall immediately cease and shall not be renewed until the defects and departures from the plans and specifications or conditions required under the terms of the permit have been corrected to the reasonable satisfaction of the building inspector. Upon the failure, refusal, or neglect of such persons to abide by the "Stop Order" issued by the building inspector, they shall be deemed to have committed a misdemeanor for each and every day of their failure, refusal, or neglect to comply with said "Stop Order."

SECTION 9-113: APPEAL

Any person aggrieved by any decision or finding by the building inspector may appeal in writing to the chairman and Village Board, setting out in detail the decision or finding of the building inspector and his reasons for said appeal. Upon receipt of any such appeal, the clerk shall place the same upon the agenda of the next regular or special meeting of the board and shall notify the building inspector of such appeal. The Village Board shall consider such appeal and determine whether or not to sustain the decision of the building inspector. In the event that the board shall determine that (A) the safety of village residents and the occupants, if any, of said structure will not be materially affected, (B) substantial hardship will result from sustaining the decision of the building inspector, and (C) the appellant did not willfully or intentionally disregard the provisions of this chapter, the Village Board may modify in whole or in part the decision or finding of the building inspector.

Article 2 – Building Codes

SECTION 9-201: BUILDING CODE; ADOPTED BY REFERENCE

The most recent edition of National Building Code by Building Officials and Code Administrators International, Inc. is hereby adopted and incorporated by reference, in addition to all amended editions, as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the current building code shall be on file at the office of the village clerk, available for public inspection during office hours. The provisions of the building code shall be controlling throughout the Village and throughout its zoning jurisdiction. (Neb. Rev. Stat. §18-132)

SECTION 9-202: ELECTRICAL CODE; ADOPTED BY REFERENCE

The most recent edition of the National Electrical Code, as recommended by the National Fire Protection Association, is hereby adopted and incorporated by reference, in addition to all amended editions, as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the current electrical code shall be on file at the office of the village clerk, available for public inspection during office hours. The provisions of the electrical code shall be controlling throughout the Village and throughout its zoning jurisdiction. (Neb. Rev. Stat. §18-132)

SECTION 9-203: PLUMBING CODE; ADOPTED BY REFERENCE

The most recent edition of the National Standard Plumbing Code is hereby adopted and incorporated by reference, in addition to all amended editions, as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the current plumbing code shall be on file at the office of the village clerk, available for public inspection during office hours. The provisions of the plumbing code shall be controlling throughout the Village and throughout its zoning jurisdiction. (Neb. Rev. Stat. §18-132)

SECTION 9-204: GAS CODE; ADOPTED BY REFERENCE

The most recent edition of the National Fuel Gas Code, as recommended by the National Fire Protection Association, is hereby adopted and incorporated by reference, in addition to all amended editions, as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the current gas code shall be on file at the office of the village clerk, available for public inspection during office hours. The provisions of the gas code shall be controlling throughout the Village and throughout its zoning jurisdiction. (Neb. Rev. Stat. §18-132)

SECTION 9-205: HOUSING CODE; ADOPTED BY REFERENCE

The most recent edition of One- and Two-Family Dwelling Code, published by Building Officials and Code Administrators International, Inc., is hereby adopted and incorporated by reference, in addition to all amended editions, as though printed in full

herein insofar as said code does not conflict with state statutes. One copy of the current housing code shall be on file at the office of the village clerk, available for public inspection during office hours. The provisions of the housing code shall be controlling throughout the Village and throughout its zoning jurisdiction. (Neb. Rev. Stat. §18-132)

SECTION 9-206: MINIMUM LIGHTING AND THERMAL EFFICIENCY STANDARDS

A. Terms Defined.

1. "Prime contractor" shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. "Prime contractor" shall also mean a property owner who performs the work of a prime contractor.
2. "Addition" shall mean any construction added to an existing building which will increase the floor area of that building by five percent or more.
3. "Architect" or "engineer" shall mean any person registered pursuant to Neb. Rev. Stat. §81-847.
4. "Building" shall mean any structure which utilizes or will utilize a heating system, cooling system, or domestic hot water system, including new buildings, renovated buildings, and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot.
5. "Floor area" shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure which is heated or cooled.
6. "Renovation" shall mean alterations on an existing building which will cost more than fifty per cent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical building shall not be included.
7. "Residential building" shall mean a building three stories or less that is used primarily as one or more dwelling units.
8. "Standard" shall mean Standard 90-75 of the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, Inc., as it existed on April 23, 1980.

9. "Traditional energy sources" shall mean electricity, petroleum based fuels, uranium, coal, and all nonrenewable forms of energy.

B. *Applicability.* The Standard shall apply to:

1. New residential buildings on which construction is initiated on or after April 1, 1981, and
2. All other new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after January 1, 1982.

C. *Exemptions.* The following shall be exempt from this act:

1. Any building which has a peak design rate of energy use for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area.
2. Any building which is neither heated nor cooled.
3. Any building or portion thereof which is owned by the United States of America.
4. Any mobile home as defined by Neb. Rev. Stat. §71-4603.
5. Any manufactured housing unit as defined by Neb. Rev. Stat. 71-1557 (1).
6. Any building listed on the National Register of Historic Places.
7. All residential buildings shall be exempt from lighting efficiency standards.

D. *Request for Alternative Building System; Approval.* Any person who owns or constructs a building to which this section applies may request that an alternative building system, technique, equipment design, or building material be found equivalent to the Standard. The building inspector shall make such determination if he finds that the proposed alternative would not result in energy consumption greater than would result from the strict application of the Standard. If the building inspector fails to approve or disapprove the request within 60 days from the date of filing, it shall be considered approved.

E. *Inspections; Investigations.*

1. The building inspector or any person designated by him or her shall conduct inspections and investigations necessary to enforce the Standard and may, at reasonable hours, enter into any building and upon any

premises within his jurisdiction for the purpose of examination to determine compliance with this ordinance. Inspections shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat. §29-830 to 29-835.

2. During construction, the building inspector or persons designated by him shall make periodic inspections to assure compliance with this section.

F. Building Plans, Determination for Approval.

1. Prior to the construction or renovation of, or addition to any building covered by this section, the prime contractor shall file sufficient plans and specifications with the building inspector to enable him to make a determination whether such building will comply with the Standard. The inspector shall, within 30 days of the filing, approve or disapprove the plans and specifications. If disapproved, the reasons shall be set forth in writing to the prime contractor.
2. If the building inspector determines that such construction, renovation or addition will comply with the Standard, he shall issue a written permit which the prime contractor shall display in a conspicuous place on the premises where the construction work is to be done. No construction, renovation or addition shall commence until a permit is issued and displayed as required by this section.

G. When Architect or Engineer is Retained. If an architect or engineer is retained, he/she shall place his/her state registration seal on all construction drawings which shall indicate that the design meets the Standard. The prime contractor shall certify that he will build in accordance with the construction documents prepared by the architect or engineer. This certification must accompany the building plans submitted to the building inspector for approval.

(Ord. No. 126)

Article 3 – Prebuilt Homes

SECTION 9-301: DEFINITION

A prebuilt home is hereby defined to be a single-family residence constructed on a site other than the location where it is to be permanently placed and which is designed for transportation to the location of its permanent placement by wheels and designed to have all running gear and hitches or tongues removed upon placement in its permanent position. A prebuilt home, as distinguished from a mobile home, is (A) designed for all running gear and hitches used in transportation to be removed without any structural alteration; (B) built with two by four wall studs; and (C) so designed that, once it is placed upon a permanent foundation, it is not readily movable.

SECTION 9-302: REQUIREMENTS

Prebuilt homes may be placed upon real estate within the corporate limits if the following requirements are met, in addition to any other applicable provisions of this code, except those that are expressly waived herein:

- A. The applicant complies with all applicable building permit requirements.
- B. A complete and detailed set of plans and specifications are submitted to the village clerk.
- C. The prebuilt home has been certified by the FHA as meeting or exceeding the minimum property standards as promulgated by the U.S. Department of Housing and Urban Development and whose construction has been approved by the Federal Housing Administration as of the time the prebuilt dwelling enters the area comprising the corporate limits.
- D. The prebuilt home is designed in such a manner that the running gear and hitch or tongue are to be removed immediately after the unit has been placed upon its permanent foundation.
- E. The permanent location of the prebuilt home includes a building foundation meeting the same requirements and standards as a conventionally built dwelling house which has complied with all applicable building inspections. It is intended by this article to waive building, plumbing and electrical inspection requirements insofar as the prebuilt home has the pertinent building construction, electrical or plumbing installed and enclosed in such a manner that to require an inspection thereof would necessitate damaging said prebuilt home in order to view the object of an inspection. It is not the intent of this article to waive any building, electrical or plumbing inspection which can be performed without damaging any part of said prebuilt home to perform said inspection or which could have been performed had construction at the location of the permanent sites of the prebuilt home not proceeded past the point

where such an inspection could have been performed without damaging said prebuilt home had an inspection been called for at the appropriate time.

Article 4 – Building Moving

SECTION 9-401: PERMIT REQUIRED; FEE, BOND

A. It shall be unlawful for any person to move any building upon, along, or across any street or alley within the limits of the Village or engage in the business of building moving except as hereinafter provided. Any person, firm or corporation desiring to move any building upon, along or across any street or alley shall make written application to the village clerk for a permit to do so.

1. In such application shall be stated (a) the location of the building to be removed, (b) the proposed route of removal and (c) the period in which said removal is to be made.
2. The application shall be accompanied by (a) a certificate of the county treasurer to the effect that all requirements and laws of the State of Nebraska have been complied with on the part of the owner of the real estate upon which said building is located and (b) by a permit fee set by motion of the Village Board and filed in the office of the clerk. Such fee shall be paid to the village treasurer, who shall credit it to the General Fund.
3. The village clerk shall refer said application to the chief of police for his/her approval and designation of the route over which the building may be moved. Upon approval of the chief of police, the clerk shall issue said permit; provided, he/she shall require a good and sufficient corporate surety bond or cash in a sum set by the Village Board and filed in the office of the village clerk. In each instance the bond or cash shall be approved by the village attorney as to form and substance and conditioned that applicant pay any and all damages that may be sustained to the street, crossings, sidewalks, curbs, gutters, paving, or otherwise to the Village or to the property of other individuals or corporations.

B. No building moving permit shall be issued to move any building into the Village unless it affirmatively appears that the premises to or upon which such building is sought to be moved and placed has or will have made available to it water, sewer and electric service. No building moving permit shall be issued to move any building into the Village unless the building inspector certifies to the clerk that the building appears to meet or exceed the provisions of this code and the construction codes adopted by the Village.

(Neb. Rev. Stat. §77-1725)

SECTION 9-402: NOTICE REQUIRED

A. Whenever it shall be necessary in moving a building to interfere with any telephone poles or wires, the public service company owning, using or operating

such poles or wires shall, upon such notice as is provided in its franchise, or if no provisions for notice are made therein, then upon 24 hours notice, be present and assist or, if necessary, move such poles and wires. The expense of said removal, as estimated, shall be paid in advance by applicant unless otherwise provided in said company's franchise.

B. Whenever the moving of any building necessitates interference with any pole or wire of the electric distribution system or of any water main or sewer main, notice in writing of the time and route of such building moving operations shall be given to the utilities superintendent, who shall proceed on behalf of the Village to make such arrangements as may be necessary relative thereto. Any expense to the Village relative to the interference with the village utility systems shall be estimated and paid in advance by the mover.

SECTION 9-403: NO GENERAL PERMITS

There shall be no general permit or license issued to move buildings at will or generally within the Village.

Article 5 – Floodplain Regulations

(Adopted by Ord. 229, 03/04/09)

SECTION 9-501: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

A. *Statutory Authorization.* The Legislature of the State of Nebraska has, in Neb. Rev. Stat. §31-1001 to 31-1022, assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare. Therefore, the Village Board of Trustees of the Village of Palmer ordains as follows:

B. *Findings of Fact*

1. *Flood Losses Resulting from Periodic Inundation.* The flood hazard areas of the Village of Palmer 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 vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

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 B (1) by applying the provisions of this ordinance to:

1. Restrict or prohibit uses which are dangerous to health, safety 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 9-502: LOCAL ADMINISTRATOR RESPONSIBILITIES

The planning/zoning administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this ordinance of the Village now in force or hereafter adopted, related to zoning, subdivision or building codes.

SECTION 9-503: DESIGNATION OF CURRENT FHBM/FIRM

The Village Board hereby designates the current Flood Insurance Rate Map for Merrick County and amendments, as the official maps to be used in determining those areas of special flood hazard.

SECTION 9-504: PERMITS REQUIRED

A. 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 this ordinance.

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

C. *Application.* To obtain a floodplain development 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 development to be covered by the floodplain development permit for which application is made.
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 or her authorized agent who may be required to submit evidence to indicate such authority.
6. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by

the local administrator.

7. Give such other information as reasonable may be required by the local administrator, (i.e., require a statement from the applicant that he/she is aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

SECTION 9-505: DEVELOPMENT PERMIT APPLICATIONS REVIEW

The local administrator 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 law.

SECTION 9-506: ALL APPLICATIONS REVIEW

The local administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s), as defined in Section 9-520 of this ordinance, 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 special flood hazard areas on the official map that the following performance standards be met:

1. 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 reasonable anticipated developments or substantial improvements, will not increase water surface elevation of the 100-year flood more than 1 foot at any location.
2. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least 1 foot above the base flood elevation.
3. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least 1 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 structural components having the capability of resisting hydrostatic and hydrody-

dynamic loads and effects of buoyancy. A registered professional or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local administrator.

4. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that 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 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 1 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 1 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. Require that 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 be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with state laws, local building codes 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. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:

1. Outside of a manufactured home park or subdivisions;
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 elevated at least 1 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 1 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 ordinance. A recreational vehicle is ready for highway use if it is on its wheel or jacking system is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

SECTION 9-507: SUBDIVISION APPLICATIONS

The Village Board 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 proposals 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 9-508: WATER AND SEWAGE SYSTEMS

New and replacement water and sewage 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 9-509: 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 9-510: FLOOD-CARRYING CAPACITY WITHIN ANY WATERCOURSE

The Village Board will ensure that the flood-carrying capacity within the altered or re-located portion of any watercourse is maintained. In riverine situations, the Village will notify adjacent communities and the state coordinating office of the Nebraska Department of Natural Resources 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 Disaster Protection Act of 1973.

SECTION 9-511: VARIANCE PROCEDURES

A. The Merrick County Board of Zoning Adjustments shall hear and decide appeals and requests for variances from the requirements of this ordinance.

B. The Merrick County Board of Zoning Adjustments shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Merrick County planning and zoning administrator and/or floodplain administrator in the enforcement or administration of this ordinance.

C. Any person aggrieved by the decision of the Merrick County Board of Zoning Adjustments or any taxpayer may appeal such decision to the District Court as provided in Neb. Rev. Stat. §19-912.

D. In passing upon such applications, the Merrick County Board of Adjustments 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 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 flood waters and the effects of wave action, if applicable, expected at the site; and,
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.

E. Conditions of 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 con-

tiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (2) to (5) below have been fully considered. As the lot size increases beyond the 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 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 \$200.00 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 9-512: NON-CONFORMING 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 six consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the chairman of the Village Board in writing of instances of nonconforming used where utility services have been discontinued for a period of six 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 percent of the market value of the structure before the damage occurred, except that 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.

SECTION 9-513: 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 such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village Board or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 9-514: 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.

SECTION 9-515: 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 Village Board and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

SECTION 9-516: 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 manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodplain 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 the Village Board 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.

SECTION 9-517: 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.

SECTION 9-518: APPEAL

Where a request for a permit to develop or a variance is denied by the Merrick County Planning and Zoning Board, the applicant may apply for such permit or variance directly to the Merrick County Board of Zoning Adjustments.

SECTION 9-519: CONFLICTING ORDINANCES

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

SECTION 9-520: DEFINITIONS

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

"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 sub-grade (below ground level) on all sides.

"Development" means any manmade 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" means the prep-

aration 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" 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 unusual and rapid accumulation of 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.

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

"Floodproofing" means any combination of structural and non-structural 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-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a buildings 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" 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 serving 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.

"100-year flood" means the conditions of flooding have a one percent chance of annual occurrence.

"Principally above ground" means that at least 51 percent of the actual cash value of the structure is above the 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 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" means the water surface elevation of the 100-year flood.

"Special flood hazard area" is the land in the floodplain within a community subject to one percent or greater change 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 (A) the installation of streets and/or walkways, (B) excavation for a basement, footings, piers, or foundations or the erection of tem-

porary forms, or (C) the installation on the property or 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 the 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 percent 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 percent 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.

"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.

Article 6 – Penal Provision

SECTION 9-601: VIOLATION; PENALTY

Any person, firm, association or corporation violating any of the provisions of the chapter herein for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor and fined in an amount of not more than \$500.00. Each day's maintenance of a misdemeanor shall constitute a separate offense.