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SECTION 8-101: MEMBERS, OFFICERS, DUTIES

The Village Board shall appoint the Planning Commission, which shall consist of seven members who shall represent, insofar as is possible, the different professions or occupations in the Village and who shall be residents of the Village. However, two of such members may be residents of the area over which the Village is authorized to exercise extraterritorial zoning and subdivision regulations. When there is a sufficient number of residents in the area over which the Village exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall be a resident from such area. If it is determined by the Board of Trustees that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For purposes of this section, a sufficient number of residents shall mean 200 residents. The members of the Commission shall serve a three-year term of office, unless reappointed. Any member may, after a public hearing before the Board of Trustees, be removed by the chairman with the consent of a majority vote of the members elected to the Board of Trustees for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the chairman.

The Commission shall serve without compensation and may be required, in the discretion of the Village Board, to give a bond in a sum set by resolution of the Village Board and conditioned upon the faithful performance of their duties. At the time of the Commission's first meeting in June of each year, the Commission shall organize by selecting from its membership a chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the village clerk where they shall be available for public inspection at any reasonable time. The Planning Commission shall be funded by the Village Board from time to time out of the General Fund. A number of commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the purpose of doing business. Special meetings may be held upon the call of the chairman or any three members of the Commission. It shall be the duty of the Commission to make and adopt plans for the physical development of the Village, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the Village. All actions by the Commission shall be subject to the review and supervision of the Village Board. Recommendations from the Commission shall be received by the Village Board within 15 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision

development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the Village Board may, from time to time, designate. No member of the Village Board or other village official, except where otherwise specifically provided, shall serve as a member of the Planning Commission while serving any other term of office. No member of the Planning Commission shall serve in the capacity of both the chairman and secretary of the Commission.

The chairman, with the approval of a majority vote of the elected members of the Board of Trustees, shall appoint one alternate member to the Commission. The alternate member shall serve without compensation and shall hold no other village office. The term of the alternate member shall be three years, and he/she shall hold office until his/her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the chairman with the approval of a majority vote of the elected member of the Board of Trustees. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.

Source: Neb. Rev. Stat. §19-924 through 19-929
(Amended September 6, 2005, Ord. No. 493)

ARTICLE II - ZONING REGULATIONS

SECTION 8-201: ZONING REGULATIONS; ADOPTED BY REFERENCE

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, the Zoning Regulations for the Village of Homer, Nebraska, as prepared by Henningson, Durham & Richardson, and published in pamphlet form, are hereby incorporated by reference in addition to all amendments which may now or in the future be made, as though printed in full herein. Three copies of the adopted Zoning Regulations shall be kept on file with the village clerk and available for inspection by any member of the public during office hours.

SECTION 8-202: SUBDIVISIONS; PLATTING; DESIGNATION OF EXTRA-TERRITORIAL JURISDICTION

The territory located within one mile of the corporate limits of the Village is hereby designated as within the Village's extraterritorial jurisdiction for the purpose of exercising the powers and duties granted by Sections 17-1002 and 17-1003 R.S. Neb., with respect to subdivisions and platting. The boundaries of the territory so designated shall be as shown on the Official Zoning Map, a copy of which is on file with the village clerk and available for inspection by any member of the public during office hours.

Source: Neb. Rev. Stat. §17-1002, 17-1004

SECTION 8-203: PLANS, PLATS AND THE LIKE; DUTIES OF VILLAGE OFFICIALS

A village official charged with the duty or responsibility of accepting or approving plans, specifications, plats and reports shall not accept or approve plans, specifications, plats or reports which have not been prepared in accordance with the Engineers and Architects Regulation Act.

A village official charged with the duty or responsibility of accepting or approving plans, specifications, geological maps and reports shall not accept or approve plans, specifications, geological maps or reports which have not been prepared in accordance with the Geologists Regulation Act.

Building in the Flood Way

No new structure can be built in the flood way.

If something happens to an existing structure, like a fire you may be able to build the exact structure but it has to meet flood plain elevation and also the no rise elevation requirements and for this they would have to hire an engineer. If they want to make improvements they cannot make more than 51% of the accessed value of the structure.

You cannot move a building from the flood way and replace it with another building this would be considered new construction.

This is a State requirement for the flood plain management ordinance.

Any questions call the State and ask for:
Bill Jones
402-471-3932

Read the market ordinance

FEMA

96 JUN 17 AM 10:42

REGION VII

NEBRASKA MODEL ORDINANCE

***Zoning Overlay District
Model Floodplain Management Ordinance
60.3(d)***

NEBRASKA MODEL ORDINANCE

***Zoning Overlay District
Model Floodplain Management Ordinance
60.3(d)***

The following model ordinance pertains only to the flood hazard areas in a community which participates in the Regular Program Phase of the National Flood Insurance Program (rather than the Emergency Program Phase). It has been designed to meet minimum requirements as published in Title 44 of the Code of Federal Regulations and the Nebraska Natural Resources Commission Minimum Standards for Floodplain Management Programs.

Not all sections in this model ordinance may be applicable to a community that wishes to adopt a flood hazard area ordinance. Therefore, this model ordinance, before adoption, should be thoroughly studied by community officials, planning commissions, and the community's attorney, as to its adequacy and suitability to the community needs.

This Floodplain Management Ordinance is an amendment to an existing zoning ordinance. This sample creates two overlaying districts: A floodway and a flood fringe, in which a development permit and review procedures are established for development only in the special flood hazard areas. Existing zoning is not changed. Specific performance standards are applied to each district for development.

This sample does not prohibit development in the special flood hazard areas. It does set forth minimum performance standards for new construction or substantially improved buildings. Communities may apply more strict regulations than the minimum Federal and State requirements. For assistance in tailoring this ordinance to meet your community's specific needs a Natural Hazards Specialist may be contacted at the following address:

Federal Emergency Management Agency
Region VII
Natural & Technological Hazards Division
2323 Grand Boulevard, Suite 900
Kansas City, Missouri 64108-2670
Phone: 816/283-7002

or contact the:

Nebraska Natural Resources Commission
Floodplain Management Section
301 Centennial Mall South
P.O. Box 94876
Lincoln, Nebraska 68509-4876
Phone: 402/471-2081

Nebraska
Zoning Overlay District
Floodplain Management Ordinance
60.3(d)

AN ORDINANCE INTRODUCED BY THE GOVERNING BODY CREATING FLOODWAY AND FLOOD FRINGE DISTRICTS DEFINING THE SAME AND SETTING FORTH REGULATIONS THEREOF.

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDINGS OF FACT

1.21 Flood Losses Resulting from Periodic Inundation

The flood hazard areas of the Village of Homer (local unit), Nebraska, 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.

1.22 General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) 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.

1.23 Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- A. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated June 19, 1996 as amended, and any future revisions thereto.
- B. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- C. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- D. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- E. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

1.3 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 Section 1.21 by applying the provisions of this ordinance to:

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

SECTION 2.0 GENERAL PROVISIONS

2.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the Village of Homer (local unit name) identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 4.0 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Board of Trustees (governing body) or its duly designated representative under such safeguards and restrictions as the Board of Trustees (governing body) or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 5.0, 6.0, and 7.0.

2.2 THE ENFORCEMENT OFFICER

The Building Inspector (local administrator) of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

2.3 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

2.4 COMPLIANCE

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

2.5 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 provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

2.6 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 governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

2.7 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of the Village of Homer (name of local unit) 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.

2.8 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.

2.9 APPEAL

Where a request for a permit to develop or a variance is denied by the Building Inspector (local administrator) the applicant may apply for such permit or variance directly to the Board of Adjustments (appeal board).

SECTION 3.0 DEVELOPMENT PERMIT

3.1 PERMIT REQUIRED

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 12.0.

3.2 ADMINISTRATION

- A. The Building Inspector (local administrator) is hereby appointed to administer and implement the provisions of this ordinance.
- B. Duties of the Building Inspector (local administrator) shall include, but not be limited to:
 - (1) Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.

- (2) Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
- (3) Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (5) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
- (6) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
- (7) When floodproofing is utilized for a particular structure the Building Inspector (local administrator) shall be presented certification from a registered professional engineer or architect.

3.3 APPLICATION FOR PERMIT

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

- 3.31 Identify and describe the development to be covered by the floodplain development permit.
- 3.32 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.
- 3.33 Indicate the use or occupancy for which the proposed development is intended.
- 3.34 Be accompanied by plans and specifications for proposed construction.
- 3.35 Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- 3.36 Give such other information as reasonably may be required by the Building Inspector (local administrator).

SECTION 4.0 ESTABLISHMENT OF ZONING DISTRICTS

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

SECTION 5.0 STANDARDS FOR FLOODPLAIN DEVELOPMENT

- 5.1 No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
- 5.2 All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of SECTION 6.0. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
- 5.3 Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
- 5.4 New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - 5.41 Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - 5.42 New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - 5.43 Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 5.44 All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
- 5.5 Storage of Material and Equipment
 - 5.51 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.
 - 5.52 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.

- 5.6 Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

SECTION 6.0 FLOOD FRINGE OVERLAY DISTRICT - (Including AO and AH Zones)

6.1 PERMITTED USES

Any use permitted in Section 7.0 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 5.0 are met.

6.2 STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT

- 6.21 Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
- 6.22 Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Building Inspector (local administrator) as set forth in Section 3.2, B(7).
- 6.23 Require for all new construction and substantial improvements that 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 one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 6.24 Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

6.25 Manufactured Homes

- A. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
- (1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - (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; and
 - (4) Any additions to the manufactured home be similarly anchored.
- B. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
- (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 at or above one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.25A.
- C. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 6.25B be elevated so that either:
- (1) The lowest floor of the manufactured home is at or above one (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 Section 6.25A.

- 6.26 Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
- 6.27 Located within the areas of special flood hazard established in Section 2.1 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
- A. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
 - B. All new construction and substantial improvements of non-residential structures shall:
 - (1) Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 3.2B(7).
 - C. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

SECTION 7.0 FLOODWAY OVERLAY DISTRICT

7.1 PERMITTED USES

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

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

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

- 7.13 Non-residential areas such as loading areas, parking and airport landing strips.
- 7.14 Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

7.2 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 5.0 and 6.0. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 5.6(d) of this ordinance, in meeting the standards of this section.

SECTION 8.0 VARIANCE PROCEDURES

- 8.1 The Board of Adjustments (appeal board) as established by the Village of Homer (local unit) shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 8.2 The Board of Adjustments (appeal board) shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Inspector (local administrator) in the enforcement or administration of this ordinance.
- 8.3 Any person aggrieved by the decision of the Board of Adjustments (appeal board) or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R.R.S. 1943 (For Counties); 19-912, R.R.S. 1943 (For Municipalities).
- 8.4 In passing upon such applications, the Board of Adjustments (appeal board) shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - 8.41 The danger that materials may be swept onto other lands to the injury of others;
 - 8.42 The danger to life and property due to flooding or erosion damage;
 - 8.43 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 8.44 The importance of the services provided by the proposed facility to the community;
 - 8.45 The necessity to the facility of a waterfront location, where applicable;
 - 8.46 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- 8.47 The compatibility of the proposed use with existing and anticipated development;
- 8.48 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 8.49 The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 8.491 The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- 8.492 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.

8.5 CONDITIONS FOR VARIANCES

- 8.51 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 (8.52-8.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 8.52 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.
- 8.53 Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
- 8.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 8.55 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 8.56 The applicant shall be given a written notice over the signature of a community official that (1) 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 (2) 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 9.0 NONCONFORMING USE

- 9.1 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:
- 9.11 If such use is discontinued for 24 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Building Inspector (local administrator) in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- 9.12 Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- 9.2 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, provided that the alteration shall not preclude its continued designation.

SECTION 10.0 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 of Homer (local unit) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 11.0 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village of Homer (local unit). At least 15 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

SECTION 12.0 DEFINITIONS

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

"Appeal" means a request for a review of the Building Inspector's (local administrator) interpretation of any provision of this ordinance or a request for a variance.

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

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

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

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

"Existing Construction" means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

"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.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The usual and rapid accumulation of runoff of surface waters from any source.

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

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

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

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

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

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

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

"Historic Structure" means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of 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 building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

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

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

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

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

"Recreational Vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 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 (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

ADOPTED AND APPROVED by the Governing Body of the Village of Homer, Nebraska.

This 6th day of June, 19 96.

(Seal)

Bud W. Hesse
(MAYOR)

ATTEST: Lara M Skow
(CITY CLERK)

ARTICLE III - FLOODWAY DISTRICTS

SECTION 8-301: 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.

"Actuarial rates" or "risk premium rates" are those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

"Appeal" is a request for a review of the building inspector's interpretation of any provision of this article or a request for a variance.

"Area of special flood hazard" is the land in the flood plain within a community subject to 1% or greater chance of flooding in any given year.

"Base flood elevation" is an elevation one foot higher than the water surface elevation of the base flood.

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

"Channel" shall mean a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of a defined channel.

"Development" shall mean 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.

"Existing construction" means (for the purpose of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures."

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

"Flood" shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood fringe" is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a 1% chance of flood occurrence in any one year).

"Flood insurance rate map" shall mean the official map of the Village on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

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

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

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

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

"Highest adjacent grade" is the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) 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: (i) by an approved state program as determined by the Secretary of the Interior

or (ii) directly by the Secretary of the Interior in states without approved programs.

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

"Manufactured home" 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. The term "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 floodplain management purposes, shall mean those structures where 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.

"Overlay district" shall mean a district in which additional requirements act in conjunction with the underlying zoning district or districts. The original zoning district designation does not change.

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

"Recreational vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Special flood hazard area" is the land in the floodplain within a community subject to 1% or greater chance of flooding in any given year.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, 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 slabs 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 or foundations or the erection of temporary forms; nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" shall mean a walled and roofed building, as well as a gas or liquid storage tank, that is principally above ground, including but without limitation to buildings, factories, sheds, cabins, mobile homes and other similar uses.

"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 reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, building 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 (ii) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

"One hundred-year flood" shall mean the condition of flooding having a one percent chance of annual occurrence.

SECTION 8-302: FINDINGS OF FACT

1. Flood Losses Resulting from Periodic Inundation. The flood hazard areas of Homer, Nebraska, 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 These Flood Losses. These flood losses are caused by (a) the cumulative effect of obstruction in floodways 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 protected from flood damages.

3. Methods Used to Analyze Flood Hazards. This article uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- A. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study and illustrative materials effective January 6, 2012. (Am. by Ord. No. 526, 11/10/11)
- B. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- C. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
- D. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
- E. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

SECTION 8-303: STATEMENT OF PURPOSE

It is the purpose of this article to promote the public health, safety and general welfare and to minimize those losses described in Section 8-302 by applying the provisions of this article to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flooding or which 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 when identified by the Federal Insurance Administration as a flood prone community.

SECTION 8-304: APPLICABLE LANDS

This article shall apply to all lands within the jurisdiction of the Village of Homer identified on the Flood Insurance Rate Map (FIRM) effective January 6, 2012, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 8-314 of this article, of best available data as determined by more recent hydrologic and hydraulic studies completed or approved by the Village or other governmental agency. In all areas covered by this article, no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Village Board or its duly designated representative under such safeguards and restrictions as the Village Board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 8-315 through 8-318. (Am. by Ord. No. 526, 11/10/11)

SECTION 8-305: ENFORCEMENT OFFICER; DUTIES

The building inspector of the Village is hereby designated as the Board's duly designated enforcement officer under this article, to administer and implement the provisions of this article.

Duties of the building inspector shall include, but not be limited to:

1. Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.
2. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
3. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. (Am. by Ord. No. 526, 11/10/11)
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Verify and record the actual elevation (in relation to mean sea level) of the lowest (continued)

floor (including basement) of all new or substantially improved structures.

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

7. When floodproofing is utilized for a particular structure, the building inspector shall be presented certification from a registered professional engineer or architect.

SECTION 8-306: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the districts as shown on the official zoning map, for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence, if he/she so desires.

SECTION 8-307: COMPLIANCE

No development located within known flood hazard areas of this Village shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

SECTION 8-308: ABROGATION AND GREATER RESTRICTIONS

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

SECTION 8-309: 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 8-310: 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 of Homer 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 8-311: 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 8-312: APPEAL

Where a request for a permit to develop or a variance is denied by the building inspector, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board may grant or deny such request by appropriate resolution adopted within 30 days after the date of such application to the Board.

SECTION 8-313: DEVELOPMENT PERMITS REQUIRED; APPLICATION FOR

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.

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/her authorized agent, who may be required to submit evidence to indicate such authority;
6. Give such other information as reasonably may be required by the building inspector.

SECTION 8-314: ESTABLISHMENT OF ZONING DISTRICTS

The mapped flood plain areas within the jurisdiction of this article are hereby divided into the two following districts: a floodway overlay district (FW) and a floodway fringe overlay district (FF) identified in the Flood Plain Study. Within these districts, all uses not meeting the standards of this article and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Insurance Administration.

SECTION 8-315: STANDARDS FOR FLOODPLAIN DEVELOPMENT

1. No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all numbered and unnumbered A zones unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this article. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation data currently available from federal, state or other sources.
3. Until a floodway has been designated, no development or substantial improvement may be permitted within the special flood hazard areas unless the applicant for the land use has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one foot at any location as shown on the official Flood Plain Study incorporated by reference.
4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - A. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

B. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

C. Construction with materials resistant to flood damage, utilizing methods and practices that will minimize flood damage, and with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. All utility and sanitary facilities be elevated or floodproofed one foot above the base flood protection elevation.

5. Storage of Material and Equipment.

A. 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.

B. 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.

6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that A) all such proposals are consistent with the need to minimize flood damage, B) all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, C) adequate drainage is provided so as to reduce exposure to flood hazards, and D) proposals for development (including manufactured home parks and subdivisions) of five acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

SECTION 8-316: FLOODWAY FRINGE OVERLAY DISTRICT;
PERMITTED USES

Any use permitted in Section 8-318 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 8-315 are met.

SECTION 8-317: FLOODWAY FRINGE OVERLAY DISTRICT; STANDARDS

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated one foot above the base flood elevation.

2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the enforcement official.

3. 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.

4. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

5. A. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

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.

B. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM 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 as incurred "substantial damage" as a result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 8-317, 5.A.

C. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 8-317, 5.A. be elevated so that either:

- 1) The lowest level of the manufactured home is at or above 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 Section 8-317, 5.A.

6. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, (iii) 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.

7. Located within the areas of special flood hazard areas established in Section 8-304 are areas designed as AO Zones. These areas have special flood

hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply with AO Zones:

A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

B. All new construction and substantial improvements of nonresidential structures shall:

1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the enforcement official.

C. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

SECTION 8-318: FLOODWAY OVERLAY DISTRICT; PERMITTED USES

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

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

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence

of the base flood discharge. These uses are subject to the standards of Sections 8-315 and 8-317. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or Section 8-315, 6(D) of this article, in meeting the standards of this section.

SECTION 8-319: VARIANCE PROCEDURES

The Board of Adjustments 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 building inspector in the enforcement or administration of this article. Any person aggrieved by the decision of the Board or Adjustments or any taxpayer may appeal such decision to the District Court as provided in 19-912 RRS 1943.

In passing upon such applications, the Board of Adjustments 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 flood waters 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.

Conditions for variances:

A. 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 B through F below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

B. 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.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

F. The applicant shall be given a written notice over the signature of a community official that (1) 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 (2) 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 8-320: NONCONFORMING USE

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 12 consecutive months, any future use of the building premises shall conform to this article. The utility department shall notify the building inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.

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

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 8-321: VIOLATION, PENALTIES

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.

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 8-322: AMENDMENTS

The regulations, restrictions and boundaries set forth in this article may from time to time be amended, supplemented, changed or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village. At least 15 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency.

The regulations of this article are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

ARTICLE IV - GENERAL DEVELOPMENT PLAN

SECTION 8-401: GENERAL DEVELOPMENT PLAN; ADOPTED AND INCORPORATED BY REFERENCE

There is hereby adopted and incorporated by reference for the Village of Homer, Nebraska, General Development Plan to be known as "General Development Plan for the Village of Homer, Nebraska," prepared and published in book form by the Siouxland Interstate Metropolitan Planning Council. Not less than three copies of said General Development Plan shall be filed with the village clerk to be open to inspection and available to the public at all reasonable hours.

ARTICLE V - GROUP HOMES

SECTION 8-501: DEFINED

For the purposes of this article, unless the context otherwise requires, the term "group home" shall mean a facility licensed by the State of Nebraska in which at least four but not more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage or adoption reside while receiving therapy, training or counseling for the purposes of adaptation to living with or rehabilitation from cerebral palsy, autism or mental retardation.

Source: Neb. Rev. Stat. §18-1744

SECTION 8-502: ESTABLISHMENT

A group home, as defined in Section 8-501, may be established and operated in any residential zone within the exercised zoning jurisdiction of the Village, except as limited in Section 8-503.

SECTION 8-503: ESTABLISHMENT, EXCEPTIONS

Departments and agencies of the State are prohibited from licensing a new group home if it will be within 1,200 feet of an existing group home, unless the Village Board grants the proposed facility a conditional or special use permit. For purposes of this section, "existing group home" shall include, in addition to group homes defined in Section 8-501, a home of any size which serves other populations, including but not limited to correctional homes and homes which serve people recuperating from the effects of drugs or alcohol, mental illness or physical disability.

The number of group homes established in the Village shall be limited according to the population of the Village, except that the Village Board may issue a variance to allow additional group homes. For the village with a population of 1,000 and less, one group home may be established; for a municipality with a population of more than 1,000 and less than 10,000 residents, one group home may be established for every 2,000 residents; for a municipality with a population of at least 10,000 but less than 50,000 residents, one group home may be established for every 3,000 residents.

Source: Neb. Rev. Stat. §18-1746, 18-1747

ARTICLE VI - PENAL PROVISION

SECTION 8-601: VIOLATION; PENALTY

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

SECTION 8-602: CONFLICTS

Where the provisions adopted by this chapter conflict with one another or with the provisions of Chapter IV, the most restrictive or stringent provisions shall govern.

