

## CHAPTER VIII – MUNICIPAL PLANNING

### ARTICLE I – MUNICIPAL LIMITS

- 8-101 MUNICIPAL LIMITS DEFINED
- 8-102 ORIGINAL PLATS

### ARTICLE II – SUBDIVISIONS AND ADDITIONS

- 8-201 SUBDIVISIONS AND ADDITIONS
- 8-202 SURVEY AND PLAT
- 8-203 SURVEYOR'S CERTIFICATE
- 8-204 DEDICATION
- 8-205 STREETS AND ALLEYS
- 8-206 APPROVAL OF PLAT
- 8-207 RECORDING PLAT
- 8-208 ADDITIONS
- 8-209 DESIGNATION OF EXTRATERRITORIAL JURISDICTION

### ARTICLE III – BUILDING SETBACK LINES

- 8-301 SETBACK LINES
- 8-302 SETBACK LINES MANDATORY

### ARTICLE IV – BUILDING PERMITS

- 8-401 BUILDING CODES
- 8-402 BUILDING INSPECTOR
- 8-403 BUILDING INSPECTOR; RIGHT OF ENTRY
- 8-404 BUILDING PERMITS
- 8-405 PERMIT LIMITATION
- 8-406 BUILDING WITHOUT PERMIT; NUISANCE
- 8-407 TIME OF INSPECTION
- 8-408 APPEAL FROM DECISION

### ARTICLE V – MOVING BUILDINGS

- 8-501 PERMIT AND BOND REQUIRED
- 8-502 NOTICE TO PUBLIC SERVICE COMPANIES REQUIRED
- 8-503 CARE REQUIRED OF LICENSEE

### ARTICLE VI – FLOODPLAIN REGULATIONS

- 8-601 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES
- 8-602 GENERAL PROVISIONS
- 8-603 DEVELOPMENT PERMIT
- 8-604 ESTABLISHMENT OF THE FLOODPLAIN ZONING DISTRICT
- 8-605 STANDARDS FOR FLOODPLAIN DEVELOPMENT
- 8-606 VARIANCE PROCEDURES
- 8-607 NONCONFORMING USE

8-608 PENALTIES FOR VIOLATION  
8-609 AMENDMENTS  
8-610 DEFINITIONS

## ARTICLE VII – ZONING REGULATIONS

8-701 ADOPTED BY REFERENCE  
8-702 OFFICIAL ZONING MAP

## ARTICLE VIII – SUBDIVISION REGULATIONS

8-801 ADOPTED BY REFERENCE

# CHAPTER VIII – MUNICIPAL PLANNING

## ARTICLE I – MUNICIPAL LIMITS

### SECTION 8-101: MUNICIPAL LIMITS DEFINED

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

### SECTION 8-102: ORIGINAL PLATS

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

## ARTICLE II – SUBDIVISIONS AND ADDITIONS

### SECTION 8-201: SUBDIVISIONS AND ADDITIONS

The owner of any tract of land within the corporate limits of the Village, or within one mile contiguous thereto, may lay out said land into lots, blocks, streets, avenues and alleys as a suburban development or as an addition to the Village upon conformance to and compliance with the conditions herein and with the statutes of Nebraska.

## SECTION 8-202: SURVEY AND PLAT

The owner or proprietor of any tract or parcel of land within the corporate limits or within one mile thereof desiring to subdivide or lay out said tract of land, shall cause the same to be accurately surveyed and an accurate map or plat thereof made with reference to known or permanent monuments and said map or plat shall designate the tract as "\_\_\_\_\_ Addition to the Village of Pleasanton, Nebraska," or "Subdivision of the Village of Pleasanton, Nebraska," whichever is appropriate. The lots and blocks shall be designated with numbers and the streets and avenues by names coinciding with the streets and avenues of the Village of which they form continuations. The plat shall show the length and depth of the lots, and the width and course of all streets, avenues and alleys, together with an accurate plat of all lots, blocks and streets.

## SECTION 8-203: SURVEYOR'S CERTIFICATE

The map or plat shall be accompanied by a certificate from the surveyor making said survey and plat that he accurately surveyed the said tract and that the lots, blocks, streets, avenues and alleys are accurately shown upon the said map or plat.

## SECTION 8-204: DEDICATION

Said map or plat shall have written thereon or attached thereto a dedication to this village for the use of the public of all streets, avenues, alleys, parks, squares and commons, and all land set apart for public use or dedicated to charitable, religious and educational purposes as therein mentioned and described. Such dedication shall be signed by the owner of the tract of land and shall be duly acknowledged as required by law.

## SECTION 8-205: STREETS AND ALLEYS

Streets and alleys laid out in any addition to or in any suburban development of the Village shall be continuous with and correspond in direction and width to the streets and alleys of the Village to which they are an addition.

## SECTION 8-206: APPROVAL OF PLAT

1. Before any such map or plat shall have any validity, it must first be submitted to and be approved and accepted by the Village Board of Trustees or by its designated agent when the subdivision is of existing lots and blocks, where all required public improvements have been installed, no new dedication of public right-of-ways or easements are involved, and the subdivision complies with requirements concerning minimum areas and dimensions of such lots and blocks. Where the county has both adopted a comprehensive development plan and is enforcing subdivision regulations, and the proposed subdivision plat both contemplates public streets or improvements and lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by the county, then the county planning commission shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period for the commission shall run concurrently with subdivision review activities of the Village after the commission receives all available material for a proposed subdivision plat.

2. The map or plat must have such acceptance and approval endorsed thereon; provided that before any such map or plat shall be considered, approved or accepted, the owner or proprietor shall pay or cause to be paid all taxes, special taxes and special assessments due thereon, and shall produce a certificate showing that all such taxes and assessments have been paid or canceled.

#### SECTION 8-207: RECORDING PLAT

If a majority of all members of the Village Board shall vote in favor of such suburban development or annexation, an ordinance shall be prepared and passed by the Village Board granting such approval or declaring the annexation of such territory to the corporate limits of this village and extending the limits thereof accordingly, whichever is appropriate. An accurate map or plat of such territory and said dedication as hereinbefore described, certified by the engineer or surveyor, and acknowledged and approved as provided by law in such cases shall at once be filed and recorded by the owner or proprietor of such land in the office of the register of deeds of the county, together with a certified copy of the ordinance granting approval or declaring such annexation, under the seal of the Village; provided, that plats and subdivisions are not authorized to be recorded if such plat or subdivision has not been approved by the Village Board or its designated agent.

#### SECTION 8-208: ADDITIONS

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

#### SECTION 8-209: DESIGNATION OF EXTRATERRITORIAL 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.

### ARTICLE III – BUILDING SETBACK REGULATIONS

#### SECTION 8-301: SETBACK LINES

To provide for the orderly growth of the Village and for purposes of fire prevention, utility placement and general welfare of the village residents, the following building setback lines be and hereby are established:

##### 1. Business District

- A. Front Yard: A business building may be constructed up to the front property line or in line with the front of other business buildings along such street if such buildings are not constructed on the front property line.

- B. Side Yard: A business building may be constructed up to the side lot line so long as such business is protected by a fireproof wall from any adjacent building. If not protected by a fireproof wall, then no building shall be constructed closer than 10 feet of the side lot line.
- C. Rear Yard: A business building may be constructed up to the rear lot line.

## 2. Residential District

- A. Front Yard. No residential or other building shall be constructed closer than 20 feet from the front lot line of the property unless the adjacent residential properties are closer than 20 feet of the front lot line, in which event the residential or other building to be constructed may be constructed in line with the other adjacent buildings.
- B. Rear Yard. No residential or other building shall be constructed closer than 5 feet from the back lot line of the property, unless application is made for construction of a garage with its doors opening onto the alley. In this event such garage shall not be constructed closer than 15 feet from the alley right of way.
- C. Side Yard. No residential or other building shall be constructed closer than 10 feet from the side lot line of the property.

## SECTION 8-302: SETBACK LINES MANDATORY

The above and foregoing setback lines shall be mandatory and shall not be waived by the Village Board except in a case of undue hardship. To establish undue hardship, the applicant for a building permit which requests a variance from the above established set back lines shall provide such information as necessary to establish undue hardship. No permit shall be issued which permits a variance from the above established set back lines until the same has been presented and approved by the Village Board. All decisions of the Village Board shall be final in regard to the granting of a variance and no permit shall be issued for construction of any building not complying with the set back lines established herein, nor shall utilities be provided to any nonconforming structure.

## ARTICLE IV – BUILDING PERMITS

### SECTION 8-401: BUILDING CODES

To provide for the safe construction of buildings in the Village and to provide minimum standards for safe and stable design, methods of construction and uses of materials in all buildings hereafter erected, constructed, enlarged, altered, repaired, relocated and converted, all national housing, construction, plumbing, electrical and fire prevention codes in effect as of the date of the adoption of this ordinance be and the same are hereby adopted. These codes shall have the same force and effect as though having been spread at large in these ordinances without further or additional reprinting herein. All amendments that may be made from time to time to such codes are incorporated herein by reference.

## SECTION 8-402: BUILDING INSPECTOR

The Village Board may appoint an individual to serve as building inspector for the Village to regulate and inspect all construction, repairs and alterations for compliance with the Village's codes as set out in Section 8-401. The Village Board shall also have the power to contract said duties with another governmental subdivision whenever it deems the appointment of a resident inspector impractical. Said building inspector shall have the power to issue permits for construction, repairs and alterations within said village, and shall have the power and authority to order all work stopped on any construction, repair or alteration which violates any provision prescribed herein. Upon failure of the Board to appoint such building inspector, the Board chairman shall act as building inspector for the Village.

## SECTION 8-403: BUILDING INSPECTOR; RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place, for the purpose of making official inspections at any reasonable hour.

## SECTION 8-404: BUILDING PERMITS

Any person desiring a building permit to commence or proceed to erect, construct, repair or relocate any building or dwelling, or cause the same to be done, shall file with the village clerk an application therefor, in writing, on a form to be furnished by the village clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect and contractor, and such other information as may be requested thereon. The application, plans and specifications so filed with the village clerk shall be checked and examined by him/her, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the said applicant shall be issued a permit upon payment of the permit fee set by resolution of the Village Board.

## SECTION 8-405: PERMIT LIMITATION

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

## SECTION 8-406: BUILDING WITHOUT PERMIT; NUISANCE

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

## SECTION 8-407: TIME OF INSPECTION

1. The building inspector, upon notification from the permit holder or his/her agent, shall make the following inspections of the building or structure and shall either

approve that portion of the construction as completed, or shall notify the permit holder or his/her agent that the work fails to comply with the requirements of the Municipal Code:

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

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

#### SECTION 8-408: APPEAL FROM DECISION

In the event that it is claimed that (1) the true intent and meaning of this chapter has been wrongly interpreted by the building inspector; that (2) the time allowed for compliance with any order of the building inspector is too short; or that (3) conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and the building inspector, the owner, his/her agent or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Village Board shall sit and act as the Village Board of Appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this Code to achieve that end. A copy of any variance so granted shall be sent to the applicant.

### ARTICLE V – MOVING BUILDINGS

#### SECTION 8-501: PERMIT AND BOND REQUIRED

1. It shall be unlawful for any person to move any building over or across any street or public way of this village until a permit therefor has been issued by the chairman of the Board and all other provisions of this article complied with. The chairman of the Board is hereby authorized to issue such permit upon the written application of the owner of said building proposed to be removed, or of his/her agent, showing the size and kind of building, its then location and its proposed location.

2. However, said permit shall not be issued until the owner of said building has furnished a bond with good and sufficient surety of \$10,000.00. Said bond is to be issued on condition, among other things, that said licensee will in all things strictly comply with all the provisions of the ordinances of this village relating to house-moving, and that said licensee will save, indemnify and keep harmless the said village from all liabilities, judgments, costs and expenses which may in any wise accrue against it in consequence of the granting of such license.

3. In addition, said licensee will pay to said village any and all damages which may be sustained by any pavement, curb, gutter, sidewalk, street or other village property through the moving of such building by said licensee, and said licensee shall pay the owner any and all damages caused in a like manner to any private property in said village. Said bond shall be approved in writing by the chairman of the Board before such license is issued.

4. The chairman of the Board in said permit shall limit the time of removal and shall specify the route to be followed in moving said building over and across the streets and public ways of said village, which shall be the route that least interferes with telephone systems and lighting systems in said village under all circumstances. It shall be unlawful for any such licensee to digress from such time or specified route without permission or written consent of the chairman of the Board.

#### SECTION 8-502: NOTICE TO PUBLIC SERVICE COMPANIES REQUIRED

Before moving any building, the licensee shall notify all public service companies whose wires or other appliances may obstruct the moving of such building of the time when such building will be moved, and request such public service companies to arrange for the passage of such building. Such licensee shall pay said public service companies the reasonable and actual cost and expense of the work required to be done.

#### SECTION 8-503: CARE REQUIRED OF LICENSEE

It shall be unlawful for any licensee to make any openings or excavations in any street pavement or to set any stakes therein, and it is hereby made a duty of every licensee to move any buildings in a careful manner and with the least possible injury to the public or private property. For every such injury or damage, he/she shall be liable on his/her bond. The estimate of the chairman of the Board of any damage shall be final and conclusive upon said licensee.

### ARTICLE VI – FLOODPLAIN REGULATIONS

(Article amended 12-8-09, Ord. No. 2009-O-10)

#### SECTION 8-601: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

A. *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 Neb. Rev. Stat. §31-1001 to 31-1022, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the Village Board of Pleasanton, Nebraska, ordains as follows:

##### B. *Findings of Fact.*

1. The flood hazard areas of the Village are subject to inundation which re-

sults 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. These flood losses are caused by (a) the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities; (b) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

*C. Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section (B)(1) by applying the provisions of this ordinance to:

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

## SECTION 8-602: GENERAL PROVISIONS

*A. Lands to Which Ordinance Applies.* This ordinance shall apply to all lands within the jurisdiction of the Village of Pleasanton, Nebraska, identified on the Flood Insurance Rate Map (FIRM) dated September 27, 1985, as numbered and unnumbered A Zones (including AE, AO and All Zones) and within the Zoning District established in Section 8-604 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 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 Section 8-605.

*B. The Enforcement Officer.* The village clerk of the community is hereby designated as the community's duly designated enforcement officer under this ordinance.

*C. Rules for Interpretation of District Boundaries.* The boundaries of the floodplain overlay district shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate 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 Village 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 Village Board and to submit his own technical evidence, if he so desires.

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

E. *Abrogation and Greater Restrictions.* It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

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

G. *Warning and Disclaimer of Liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodplain district boundaries or land uses permitted within the district will be free from flooding or flood damage. This ordinance shall not create liability on the part of the Village of Pleasanton or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

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

I. *Appeal.* Where a request for a permit to develop or a variance is denied by the village clerk the applicant may apply for such permit or variance directly to the Village Board.

## SECTION 8-603: DEVELOPMENT PERMIT

A. *Permit Required.* No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 8-610.

### B. *Administration.*

1. The village clerk is hereby appointed to administer and implement the provisions of this ordinance.

2. Duties of the village clerk shall include, but not be limited to:
  - a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - b. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  - c. 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.
  - d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - e. 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.
  - f. 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.
  - g. When floodproofing is utilized for a particular structure the village clerk shall be presented certification from a registered professional engineer or architect.

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

1. Identify and describe the development to be covered by the floodplain development permit.
2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
3. Indicate the use or occupancy for which the proposed development is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his 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 village clerk.

## SECTION 8-604: ESTABLISHMENT OF THE FLOODPLAIN ZONING DISTRICT

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district as identified in the Flood Insurance Study [and accompanying map(s)]. Within this district all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

## SECTION 8-605: STANDARDS FOR FLOODPLAIN DEVELOPMENT

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

B. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodplain data currently available from federal, state or other sources. A report entitled "Pleasanton Floodplain Study" and dated 2004 is hereby adopted as the best available base flood elevation data.

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

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

1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

#### E. Storage of material and equipment

1. 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.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

F. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (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.

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

H. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the village clerk as set forth in Section 8-603(B)(2)(g).

I. 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.

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

#### K. Manufactured homes

1. 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 guide-lines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - a. 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;
  - b. 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;
  - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - d. Any additions to the manufactured home be similarly anchored.
  
2. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
  - a. Outside of a manufactured home park or subdivision,
  - b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. 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 subsection (K)(1) of this section.
  
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of subsection (K)(2) of this section be elevated so that either:
  - a. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (K)(1) of this section.

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

this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

M. Located within the areas of special flood hazard established in Section 8-602(A) 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:

1. 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).
2. All new construction and substantial improvements of non-residential structures shall:
  - a. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  - b. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 8-603(B)(2).
3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

## SECTION 8-606: VARIANCE PROCEDURES

A. The Village Board shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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

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

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

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

#### E. Conditions for variances

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (2)-(5) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon (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.
5. 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/resolution.

#### SECTION 8-607: NONCONFORMING USE

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

1. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the village clerk in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 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 8-608: PENALTIES FOR VIOLATION

A. 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 \$500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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

remedy any violation.

## SECTION 8-609: 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 Pleasanton. At least 10 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 8-610: 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 village clerk's 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 equaled or exceeded in any given year.

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

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

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

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

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

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

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 floodplain 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 (1) 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; (2) 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; (3) 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 (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program as determined by the secretary of the interior or (b) 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" means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

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

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

"Recreational vehicle" means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) 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, grad-

ing 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."

"Variance" 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.

## ARTICLE VII – ZONING REGULATIONS

### SECTION 8-701: 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 provision of transportation, water, sewage, schools, parks and other public improvements, the zoning regulations of the Village of Pleasanton, presented and prepared by said village, are hereby adopted. The adoption of such zoning regulations shall include any amendments thereto as may be made from time to time. Said zoning regulations, as well as amendments, are hereby incorporated by reference in this ordinance as if set out in full. One copy of the zoning regulations shall be maintained by the village clerk at the village office and available for public inspection during regular office hours. (Ref. Neb. Rev. Stat. §18-132, 19-922)

### SECTION 8-702: OFFICIAL ZONING MAP

The Village of Pleasanton and certain properties within and up to one mile of its corpo-

rate limits are hereby divided into zones or districts as shown on the official zoning map which, together with all explanatory material and documentation, is hereby adopted by reference, declared to be part of the zoning regulations of the Village and furthered declared to be a part of this ordinance. The official zoning map shall be identified by the signature of the chairman, attested to by the village clerk and bearing the seal of the Village under the following words:

"This is to certify that this is the official zoning map referred to in Section 4.3 of Ordinance No. 2003-0-4 of the Village of Pleasanton, Nebraska, adopted January 15, 2003. The official zoning map of the area within the corporate limits and the planning jurisdiction area adjacent and one mile beyond the corporate limits of the Village of Pleasanton, together with all changes, amendments or additions thereto, shall be maintained in the office of the village clerk and available for public inspection during regular office hours.

(Adopted 1-15-03, Ord. No. 2003-0-4)

## ARTICLE VIII – SUBDIVISION REGULATIONS

### SECTION 8-801: INCORPORATED BY REFERENCE

To provide for harmonious development of the Village and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light, air, for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience or prosperity; and insure conformance of subdivision plans with capital improvements programs of the Village; and to secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance of subdivides and the Planning Commission and Village Board, the subdivision regulations for the Village of Pleasanton, as prepared by the Village of Pleasanton and adopted by Ordinance No. 2003-0-05, dated January 15, 2003, including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the subdivision regulations shall be kept on file with the village clerk and available for public inspection during regular office hours. (Ref. Neb. Rev. Stat. §18-132, 19-922) (Adopted 1-15-03, Ord. No. 2003-0-5)