

Chapter 47--Moscow Mills Flood Damage Prevention (Floodplain) Ordinance

47.100-ARTICLE 1- STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND OBJECTIVES

SECTION A. Statutory Authorization

The legislature of the State of Missouri has in Missouri Revised Statutes 79.110 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore the Board of Aldermen of Moscow Mills, MO does ordain as follows:

SECTION B. Findings of Fact

- (1) The flood hazard areas of the City of Moscow Mills are subject to periodic inundation which results in lose of life, 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 the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, flood proofed or otherwise unprotected from flood damages.
- (3) *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

- a. Selection of a base flood that 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 selected for this ordinance is representative of large floods which are 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 chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for Lincoln County dated September 29, 2010 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

- d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
- e. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

SECTION C. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare; to minimize those losses described in Article 1, Section B (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this ordinance to:

- (1) To protect human life and health.
- (2) To minimize expenditure of public money for costly flood control projects.
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) To minimize prolonged business interruptions.
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains
- (6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.
- (7) To insure that potential home buyers are notified that property is in a flood area.
- (8) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION D. Methods of Reducing Flood Losses

In order to accomplish its purposes this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion or the flood heights or velocities.
- (2) Requiring that uses vulnerable to floods including facilities which serve such uses be protected against flood damage at the time of initial construction.
- (3) Controlling the alteration of natural flood plains, stream channels and natural protective barriers which are involved in the accommodation of flood waters.

- (4) Controlling filling, grading, dredging and other development which may increase erosion or flood damage.
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodway waters or which may increase flood hazards in other areas.

47.200-ARTICLE 2-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.

“100-year Flood” see “*base flood*”

“Accessory Structure” means the same as “*appurtenant structure*”.

“Actuarial or Risk Premium Rates” means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

“Administrator” means The Federal Insurance Administrator.

“Agency” means The Federal Emergency Management Agency (FEMA).

“Agricultural Commodities” means agricultural products and livestock.

“Agricultural Structure” means any structure used exclusively in connection with the production, harvesting, storage, drying or raising of agricultural commodities.

“Appeal” means a request

- (1) For a review of the Floodplain Manager’s interpretation of any provision of this ordinance or a request for a variance or
- (2) For a judgment of the City of Moscow Mills interpretation of any provision of this ordinance or a request for a variance.

“Appurtenant Structure” means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principle structure.

“Area of Shallow Flooding” means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one per cent 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.

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

“Base Flood” means the flood having one per cent chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor sub grade (below ground level) on all sides.

“Building” see “*structure*”.

“Building Restriction Agreement” agreement to ensure structures are reasonably safe from flooding.

“Chief Executive Officer” or **“Chief Elected Official”** means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

“Community” means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

“Condemned Structure” A structure that has received a \$0 assessment for a continuous 3 year period and/or poses a threat to the health and well being of human life.

“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*.

“Elevated Building” means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

“Eligible Community” or **“Participating Community”** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

“Existing Construction” means (for the purposes of determining rates) structures for which the “start of construction” commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before January 1, 1975 for Flood Insurance Rate Maps (FIRM) 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 completed 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 unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

“Flood Elevation Determination” means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

“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 (FEMA) that contains flood profiles and the water surface elevation of the base flood as well as the Flood Boundary and Floodway Map (FBFM).

“Floodplain” or **“Flood-prone Area”** means any land area susceptible to being inundated by water from any source (see *“flooding”*).

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage including but not limited to emergency preparedness plans, flood control works and the floodplain management regulations.

“Floodplain Management Regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

“Flood proofing” means any combination of structural and non-structural additions, changes or adjustment to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities or structures and their contents.

“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.

“Floodway Encroachment Lines” means the lines marking the limits of the floodways on Federal, State and local floodplain maps.

“Floodway Fringe” means an area outside the floodway encroachment lines but still subject to inundation by the regulatory flood.

“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.

“Functionally Dependent Use” means a use that can not perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

“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 preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- (2) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary of the Interior to qualify as a registered historic district:
- (3) 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.

“Inoperable Vehicle” any kind of contrivance, on wheels or runners, used to carry people or goods from one place to another over land that is junked, dismantled, wrecked or unlicensed.

“Inspection” Act of checking for structural compliance to local flood damage prevention ordinance 60.3(d).

“Junk” old or scrap copper, brass, rope, appliances, batteries, paper, trash, rubber debris, waste, iron, steel, and all other old or scrap ferrous or nonferrous materials.

“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 flood proofing 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 connected to the required utilities. The term “*manufactured home*” **does not include** “*recreational vehicle*”. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than **180** consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers and other similar vehicles.

“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.

“Map” means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

“Market Value” or **“Fair Market Value”** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

“Mean Sea Level” means, for the purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) to which base flood elevations shown on a community’s Flood Insurance Rate Map (FIRM) are referenced.

“New Construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

“New Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of the 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 the floodplain management regulations adopted by a community.

“Participating Community” also known as an **“Eligible Community”** means a community in which the Administrator has authorized a sale of flood insurance.

“Person” includes any individual or group of individuals, corporation, partnership, association or any other entity including Federal, State and local governments and agencies.

“Principally Above Ground” means that at least 51 percent of the actual cash value of the structure, less land value, 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 longest 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.

“Remedy A Violation” means to bring the structure or other development into compliance with Federal, State or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance.

“Risk Premium Rates” means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *“Risk premium rates”* include provisions for operating costs and allowances.

“Special Flood Hazard Areas” see *“area of special flood hazard”*.

“Special Hazard Area” means an area having special flood hazards and shown on a Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM) as zones (unnumbered or numbered) A, AO, AE or AH.

“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 a 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 that alteration affects the external dimensions of the building.*

“State Coordinating Agency” means that agency of the state government or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. “*Structure*” for insurance purposes means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose the term includes a building while in the course of construction, alteration or repair but does not include building materials or supplies intended for use in such construction, alteration or repair unless such materials or supplies are within an enclosed building on the premises.

“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 the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. This 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 officer and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration which 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.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation” means the height in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

47.300-ARTICLE 3-GENERAL PROVISIONS

SECTION A. Lands to which Ordinance Applies

This ordinance shall apply to all lands within the jurisdiction of the City of Moscow Mills, Missouri identified as numbered and unnumbered A zones and AE zones, on the Flood Insurance Rate Maps (FIRMs) for Lincoln County, Missouri on map panels 29113C0379D, 29113C0383D, 291130384D, 29113C0391D, and 29113C0392D dated September 29, 2010 as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 5.

SECTION B.-Not used

SECTION C. Penalties for Non-Compliance

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

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 **\$1000.00** or imprisoned for not more than **365** days or both 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 City of Moscow Mills or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION D. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION E. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION F. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will

occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Moscow Mills or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

SECTION G. Severability

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

The Governing Body of the City of Moscow Mills first adopted and approved ordinance 327 on May 8, 2006.

47.400-ARTICLE 4-ADMINISTRATION

SECTION A. Establishment of Development Permit

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Article 3, Section B. No person shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development as defined in Article 2. Application for a Development Permit shall be made on forms furnished by the Floodplain Manager and may include but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically the following information is required:

- (1) Elevations in relation to mean sea level of the lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any non-residential structure is to be flood proofed.
- (3) Certification from a registered professional engineer or architect that the non-residential flood proofed structure will meet the flood proofing criteria in Article 5, Section D(2).
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

SECTION B. Designation of the Local Administrator

The Mayor, also know as the Floodplain Manager, is hereby appointed to administer and implement the provisions of this ordinance, by granting or denying development permit applications in accordance with its provisions.

SECTION C. Duties and Responsibilities of Floodplain Manager

Duties of the Floodplain Manager 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 ordinance 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) When base flood elevation data has not been provided in accordance with Article 3, Section B, then the Floodplain Manager shall obtain, review and reasonably utilize any base flood elevation or floodway data available from a Federal, State or other source in order to administer the provisions of Article 5.
- (4) 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.
- (5) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
- (6) When flood proofing is utilized for a particular structure the Floodplain Manager shall obtain certification from a registered professional engineer or architect.
- (7) Notify adjacent communities and the State Emergency Management Agency (SEMA) prior to any alteration or relocation of a watercourse and shall submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (8) Assure that maintenance is provided within the altered or relocated portion of said watercourse so-that the flood carrying capacity is not diminished.
- (9) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual "field" conditions) the Floodplain Manager shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

SECTION D. Variance Procedures

- (1) Agricultural and Accessory structures as defined in Article 2 and Article 5, Section A(11) & (12) of this ordinance, may be eligible for administrative review for variance approval by the Floodplain Manager in accordance with Article 4, Section D(6) & (7) of this ordinance. All approved administrative variances are subject to review by the City of Moscow Mills Board of Aldermen.

- (2) The City of Moscow Mills Board of Aldermen shall hear and decide all other appeals and requests for variances from the floodplain *administrator* of this ordinance.
- (3) Any person aggrieved by the decision of the City of Moscow Mills Board of Aldermen or any taxpayer may appeal such decision to the Lincoln County Circuit Court as provided in Missouri Revised Statutes.
- (4) In passing upon such applications, the City of Moscow Mills Board of Aldermen shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance and:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility to a waterfront location where applicable.
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action.
 - (k) The cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems and streets and bridges.
- (5) Condition 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-f) below, have been fully considered. As the lot size increases beyond the one-half acre the technical jurisdiction required for issuing the variance increases.

- (b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- (c) Variances shall not be issued within any designated floodway if any increase in 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 applicants 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) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) Conditions for Approving Variances for Agricultural Structures

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 4, Section D(4) & (5) of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-proofed.

- (a) All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, can not be considered agricultural structures.

- (b) Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
- (c) For any new or substantially damaged agricultural structure, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 5, Section A(2) of this ordinance.
- (d) The agricultural structures must be adequately anchored to prevent flotation, collapse or lateral movement of the structures in accordance with Article 5, Section A(1) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- (e) Any mechanical, electrical or other utility equipment must be located above the base flood elevation or flood proofed so that they are contained within a watertight flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 5, Section A(4) of this ordinance.
- (f) The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 5, Section D(3)(a) & (b) of this ordinance.
- (g) The agricultural structure must comply with the floodplain management floodway encroachment provisions of Article 5, Section E(1) of this ordinance. No variance may be issued for agricultural structure within any designated floodway, if any increases in flood levels would result during the 100-year flood.
- (h) Major equipment, machinery or other contents must be protected from any flood damage.
- (i) No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
- (j) A community shall notify the applicant in writing over the signature of a community official that:
 - (i) 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

- (ii) Such construction below the base flood level increases risks to life and property.
- (k) Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- (l) Wet-flood proofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(7) Conditions for Approving Variances for Accessory Structures

Any variance granted for an accessory structure shall be decided individually based case by case analysis of the buildings unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set for in Article 4, Section D(4) & (5) of this ordinance.

In order to minimize flood damages during the 100-year flood and threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-flood proofed.

- (a) Use of the accessory structures must be solely for parking and limited storage purposes in zone A as identified on the community's Flood Insurance Rate Map (FIRM).
- (b) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 5, Section A(2) of this ordinance.
- (c) The accessory structures must be adequately anchored to prevent flotation, collapse or lateral movement of the structure in accordance with Article 5, Section A(1) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- (d) Any mechanical, electrical or other utility equipment must be located above the base flood elevation or flood proofed so that they are contained within a watertight flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 5, Section A(4) of this ordinance.
- (e) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NIFP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will

permit the automatic entry and exit of floodwaters in accordance with Article 5, Section D(3)(a) & (b) of this ordinance.

- (f) The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 5, Section E(1) of this ordinance. No variance may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
- (g) Major equipment, machinery or other contents must be protected from any flood damage.
- (h) No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
- (i) A community shall notify the applicant in writing over the signature of a community official that:
 - (i) 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
 - (ii) Such construction below base flood level increases risks to life and property.
- (j) Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- (k) Wet-flood roofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

SECTION E. Permit Fees

All structures damaged by any means including flooding are subject to compliance with the provisions of this ordinance and the following fees:

- (1) Reconstruction permits shall be issued for repairs to all structures damaged in excess of **20%** of the market value before the damage occurred. The fee for this reconstruction permit is **\$75.00**.
- (2) New Construction permits or Substantial Improvement permits shall be issued for all new construction or for repairs to all structures damaged over **50%** and shall meet the requirements of Article 5, Section D of this ordinance. The fee for this New Construction permit or Substantial Improvement permit shall be **\$200.00**.
- (3) Permit Fees for all subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions shall be **\$100.00** per lot or **\$250.00** per acre, whichever has been determined.

47.500-ARTICLE 5-PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. General Standards

In all areas of special flood hazards (Zones A, AE, A1-30, A99) the following provisions are required:

- (1) All new construction including manufactured homes and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
- (2) All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (4) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, 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) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (7) On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (8) 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.
- (9) 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 and
- (10) That until a floodway has been designated, no development, including landfill, may be permitted within Zones AI-30 and AE on the Flood Insurance Rate Map (FIRM) unless the applicant for the land use has demonstrated that the proposed use when combined with all other existing and reasonably anticipated uses will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference Article 3, Section B of this ordinance.

- (11) Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-proofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale or manufacturing use included in the structure; a variance has been granted from the standard floodplain management requirements of this ordinance and a floodplain development permit has been issued.
- (12) Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value and not larger than 400 square feet, may be constructed at-grade and wet-proofed provided there is no habitation or occupancy of the structure; the structure is of single wall design; a variance has been granted from the standard floodplain management requirements of this ordinance and a floodplain development permit has been issued.
- (13) The placement or storage of junk within the flood hazard area will not be permitted.
- (14) The placement or storage of an inoperable vehicle within the flood hazard area will not be permitted.
- (15) Require that an elevation certificate be completed by a certified engineer, surveyor or architect before and after construction for all substantial and new improvements.
- (16) Community approval for LOMR (Letter of Map Revision) LOMR-F (Letter of Map Revision based of Fill) may be given only after a *'Building Restriction Agreement'* is signed and recorded by the Owner and County.

SECTION B. Standards for Subdivision Proposals

- (1) All subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) Base flood elevation data shall be provided for subdivision proposals and other proposed developments including proposals for manufactured home parks and subdivisions.
- (4) Permit Fees for all subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions shall be \$100.00 per lot or \$250.00 per acre, whichever has been determined.

SECTION C. Recreational Vehicles

Require that recreational vehicles placed on sites within special flood hazard areas on the community's Flood Insurance Rate Map (FIRM) either:

- (1) Be on the site for fewer than **180** consecutive days and be fully licensed and ready for highway use * or
- (2) Meet the permitting, elevating and the 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.

SECTION D. Specific Standards

In (Zones A, AE, A1-30, A99) the following provisions are required:

- (1) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least **TWO FEET** above the level of the base flood elevation.
- (2) Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-resident structure shall either have the lowest floor, including basement,
 - (i) elevated to at least **TWO FEET** above the level of the base flood elevation or
 - (ii) together with attendant utility and sanitary facilities be flood proofed 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 official as set forth in Article 4, Section C (6).
- (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 wall 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) 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 and
 - (b) 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) Manufactured Homes

- (a) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with state and local building codes and Federal Emergency Management Agency (FEMA) guidelines. In the event that over-the-top frame ties to ground anchors are used the following specific requirements (or their equivalent) shall be met:
- (i) Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
 - (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.
 - (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds and
 - (iv) Any additions to the manufactured home be similarly anchored.
- (b) Require that all manufactured homes to be placed within Zones AI-30, AH and AE on the community's Flood Insurance Rate Map (FIRM) be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least **TWO FEET** above the level of the base flood elevations and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Article 5, Section D(4)(a).

(5) Inspections

- (a) Property owner or individual who obtained floodplain development permit will be required to contact floodplain manager at the conclusion of all improvements.
- (i) Inspections will be performed by the floodplain manager or designated representative.
 - (ii) Inspections may be performed during and will be performed at the conclusion of all improvements.

SECTION E. Floodways

Located within areas of special flood hazard established in Article 3, Section B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential the following provisions shall apply:

- (1) Prohibit encroachments including fill, new construction, substantial improvements and other developments unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
- (2) If Article 5, Section D(1) is satisfied all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) In Zone A unnumbered obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Article 5, Section B(4) of this ordinance in meeting the standards of this section.

SECTION F. Areas of Shallow Flooding (AO, AH and A Zones)

Located within the areas of special flood hazard established in Article 3, Section B are areas designated as shallow flooding. 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:

- (1) Within 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 **TWO FEET** above the depth number specified in feet on the community's Flood Insurance Rate Map (FIRM) (at least three feet if no depth number is specified).
 - (b) All new construction and substantial improvements of non-residential structures shall:
 - (i) Have the lowest floor (including basement) elevated above the highest adjacent grade at least **TWO FEET** above the depth number specified in feet on the community's Flood Insurance Rate Map (FIRM) (at least three feet if no depth number is specified) or
 - (ii) 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.

- (b) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
 - (c) The anchoring requirements for manufactured homes as established in Article 5, Section D(4)(a) shall be required.
- (2) Within AH Zones
 - (a) The specific standards for all areas of special flood hazard where base flood elevation data has been provided shall be required as set forth in Article 5, Section C.
 - (b) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- (3) Within A Zones
 - (a) Special shallow flood hazard to be determined by county
 - (b) Areas not determined will be required to elevate at least **TWO FOOT** above the Base Flood Elevation to be determined by certified engineer or surveyor

SECTION G. Condemned Structures (All flood zones included)

- (1) Determination
 - (a) Will be made by the floodplain manager in cooperation with the Lincoln County Assessor's Office.
- (2) Owner's Responsibility
 - (a) Once determined, owner is required to demolish and dispose of materials according to local, state and federal environmental laws.
 - (b) Compliance of 90 days

47.600-ARTICLE 6-NON-CONFORMING USE

- (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:
 - (a) If such use is discontinued for **12** consecutive months any future use of the building premises shall conform to the ordinance. The Utility Department shall notify the Floodplain

Manager_in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.

- (b) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- (2) If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 per cent 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 structure listed on the National Register of Historic Places of a State Inventory of Historic Places.

47.700-ARTICLE 7-AMENDMENTS

The regulations, restrictions or boundaries set forth in this ordinance 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 had an opportunity to be heard. Notice of the time and place of such hearing shall be published in the legal newspaper and a local newspaper both of general circulation in the County of Lincoln.

At least 20 days shall elapse between the date of 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.

Adopted by Ordinance #327, 5/8/06. Amended by Ordinance #563, 8/9/10. Ordinance #745, 7/11/16.