

## **CHAPTER 10 – MUNICIPAL PLANNING**

### **ARTICLE 1 – COMPREHENSIVE PLAN**

**SECTION 10-101: ADOPTED**

### **ARTICLE 2 – ZONING REGULATIONS**

**SECTION 10-201: ADOPTED**

### **ARTICLE 3 – MUNICIPAL LIMITS**

**SECTION 10-301: DEFINITIONS**

**SECTION 10-302: ORIGINAL PLATS**

**SECTION 10-303: DESIGNATION OF EXTRATERRITORIAL JURISDICTION**

### **ARTICLE 4 – SUBDIVISION REGULATIONS**

**SECTION 10-401: INCORPORATED BY REFERENCE**

**SECTION 10-402: SUBDIVISION AND ADDITIONS PERMITTED**

**SECTION 10-403: STREETS AND ALLEYS**

**SECTION 10-404: SURVEY AND PLAT**

**SECTION 10-405: APPROVAL OF PLAT**

**SECTION 10-406: INCORPORATION INTO VILLAGE**

### **ARTICLE 5 – FLOODPLAIN REGULATIONS**

**SECTION 10-501: STATUTORY AUTHORIZATION; FINDINGS OF FACT;  
PURPOSES**

**SECTION 10-502: GENERAL PROVISIONS**

**SECTION 10-503: DEVELOPMENT PERMIT**

**SECTION 10-504: ESTABLISHMENT OF ZONING FLOODPLAIN DISTRICTS**

**SECTION 10-505: STANDARDS FOR FLOODPLAIN DEVELOPMENT**

**SECTION 10-506: FLOOD FRINGE OVERLAY DISTRICT (INCLUDING AO  
AND AH ZONES)**

**SECTION 10-507: FLOODWAY OVERLAY DISTRICT**

**SECTION 10-508: VARIANCE PROCEDURES**

**SECTION 10-509: NONCONFORMING USE**

**SECTION 10-510: PENALTIES FOR VIOLATION**

**SECTION 10-511: AMENDMENTS**

**SECTION 10-512: DEFINITIONS**

### **ARTICLE 6 – GROUP HOMES**

**SECTION 10-601: DEFINITIONS**

**SECTION 10-602: ESTABLISHMENT; EXCEPTIONS**

**ARTICLE 7 – PENAL PROVISION**

**SECTION 10-701: VIOLATION; PENALTY**

## **CHAPTER 10 – MUNICIPAL PLANNING**

### **Article 1 – Comprehensive Plan**

#### **SECTION 10-101: ADOPTED**

In order to accommodate anticipated long-range future growth, the Comprehensive Development Plan and any amendments that may be made therein from time to time for the Village of DeWitt, as prepared by Bucher, Willis & Ratliff and published in pamphlet form and any amendments thereto as may be made therein from time to time are hereby adopted. One copy of the adopted plan shall be kept on file with the village clerk and available for inspection by any member of the public during office hours. (Neb. Rev. Stat. §18-132) (Ord. No. 438, 11/5/85)



## Article 2 – Zoning Regulations

### SECTION 10-201: ADOPTED

A. For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity and general welfare of the community of DeWitt, Nebraska, 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 for the Village of DeWitt, Nebraska, presented and prepared by said village, are hereby adopted. Said zoning regulations are hereby incorporated by reference in this section 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. (Neb. Rev. Stat. §§18-132, 19-922)

B. The Village of DeWitt, Nebraska and certain properties within and up to one mile in all directions of its corporate 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 further declared to be part of this section. The official zoning map of the village shall be identified by the signature of the chairman of the Village Board, 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 Article 3, Chapter 1 of Ordinance 718 of the Village of DeWitt, Nebraska, adopted October 4, 2005. The Official Zoning Map of the area within the corporate limits and the planning area adjacent and one mile beyond the corporate limits of the Village of DeWitt, together with all changes, amendments or additions thereto, shall be maintained in the office of the municipal clerk and available for public inspection during regular office hours."

(Ord. Nos. 201, 1/7/75; 438, 11/5/85; 718, 10/4/05)



## Article 3 – Municipal Limits

### SECTION 10-301: DEFINITIONS

All additions, lots, lands, subdivisions 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 town site 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 village limits shall be indicated upon said maps and plat by the village engineer after any such addition or change has been completed in accordance with the ordinances of this village and the laws of the State of Nebraska. (Neb. Rev. Stat. §§17-405 through 17-426, 17-1002, 17-1003)

### SECTION 10-302: ORIGINAL PLATS

Each and all plats, lots, blocks, additions, subdivisions, out lots, 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 out lots 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. (Neb. Rev. Stat. §§17-405 through 17-426, 17-1002, 17-1003)

### SECTION 10-303: 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 Neb. Rev. Stat. §§17-1002 and 17-1003 with respect to subdivisions and platting. The boundaries of the territory so designated shall be as shown on the Official Zoning Map in the office of the municipal clerk. (Neb. Rev. Stat. §§17-1002, 17-1004) (Ord. No. 553, 12/6/94)



## Article 4 – Subdivision Regulations

### SECTION 10-401: 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 and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience or prosperity; to insure conformance of subdivision plans with the capital improvements programs of the village; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdivides and the planning and zoning commission and Village Board, the subdivision regulations for the Village of DeWitt are hereby adopted. Said subdivision regulations are hereby incorporated by reference in this section 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. (Neb. Rev. Stat. §§17-1003, 18-132) (Ord. Nos. 202, 1/7/75; 438, 11/5/85; 719, 10/4/05)

### SECTION 10-402: SUBDIVISION AND ADDITIONS PERMITTED

The proprietor or proprietors of any land within the corporate limits of the village, or of any land within the area designated as the village's extraterritorial jurisdiction pursuant to Neb. Rev. Stat. §17-1002, may lay out such land into lots, blocks, streets, avenues, alleys and other grounds under the name of “\_\_\_\_\_ Addition to the Village of DeWitt” and may subdivide, plat, or lay out any such land upon conformance to and compliance with the conditions in this code and state law. (Neb. Rev. Stat. §19-916) (Am. Ord. No. 691, 6/8/05)

### SECTION 10-403: STREETS AND ALLEYS

Streets and alleys laid out in any addition to 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. (Neb. Rev. Stat. §17-418)

### SECTION 10-404: SURVEY AND PLAT

A. The owner or proprietor of any tract or parcel of land who shall subdivide the same into two or more parts for the purpose of laying out any addition to the village or any part thereof, or suburban lots, shall cause a plat of such subdivision to be made, with references to known or permanent monuments, which shall accurately describe all subdivisions of such tract or parcel of land, numbering the same by progressive numbers and giving the dimensions and length and breadth thereof and the breadth and courses of all streets and alleys established therein. (Neb. Rev. Stat. §17-415)

B. The map or plat of land within the corporate limits of the village or of any

land within the area designated as the village's extraterritorial jurisdiction pursuant to Neb. Rev. Stat. §17-1002 shall designate explicitly the land so laid out and particularly describe the lots, blocks, streets, avenues, alleys, and other grounds belonging to such addition. The lots shall be designated by numbers and streets, avenues, and other grounds shall be designated by names or numbers. Such plat shall be acknowledged before some other officer authorized to take the acknowledgments of deeds and shall contain a dedication of the streets, alleys, and public grounds therein to the use and benefit of the public. Said plat shall have appended to it a survey made by a competent surveyor with a certificate attached, certifying that he or she has accurately surveyed such addition and that the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds are well and accurately staked off and marked. When such map or plat is so made out, acknowledged, and certified and has been approved by the Village Board, the same shall be filed and recorded in the office of the register of deeds and county assessor.

(Neb. Rev. Stat. §19-916) (Am. Ord. No. 692, 6/8/05)

#### **SECTION 10-405: APPROVAL OF PLAT**

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 or its designated agent. When the subdivision is of existing lots and blocks, said submission shall designate where all required public improvements have been installed; whether or not new dedication of public rights-of-way or easements are involved; and that 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, 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. The map or plat must have such acceptance and such acceptance and approval endorsed thereon; provided, 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. (Neb. Rev. Stat. §§17-405, 17-1002, 19-902, 19-916) (Am. Ord. Nos. 257, 9/5/78; 378, 11/1/83)

#### **SECTION 10-406: INCORPORATION INTO VILLAGE**

All additions to the village laid out and previously located within the corporate boundaries of the village shall remain a part of the village. All additions laid out adjoining or contiguous to the corporate limits may be included within the corporate limits and become a part of the village for all purposes whatsoever at such time as the addition is approved as provided in Neb. Rev. Stat. §19-916. If the Village Board includes the addition within the corporate limits, the inhabitants of such addition shall be entitled to

all the rights and privileges and shall be subject to all the laws, ordinances, rules and regulations of the village. (Neb. Rev. Stat. §19-916) (Am. Ord. No. 693, 6/8/05)



## Article 5 – Floodplain Regulations

(Ord. No. 723, 5/4/10)

### SECTION 10-501: STATUTORY AUTHORIZATION; FINDINGS OF FACT; 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 city or village with zoning jurisdiction over the flood-prone area. Therefore, the chairman and board of the Village of DeWitt, Saline County, Nebraska, ordains as follows:

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

1. *Flood Losses Resulting from Periodic Inundation.* The flood hazard areas of the village are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. *General Causes of the Flood Losses.* These flood losses are caused by: (A) the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (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.
3. *Methods Used to Analyze Flood Hazards.* This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.
  - a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this article. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study and illustrative materials dated October 15, 1982, as amended.
  - b. Calculation of water surface profiles based on a hydraulic engineering

analysis of the capacity of the stream channel and overbank areas to convey the base flood.

- c. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

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

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or 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 10-502: GENERAL PROVISIONS**

A. *Lands to Which Article Applies.* This article shall apply to all lands within the jurisdiction of the Village of DeWitt identified on the Flood Insurance Rate Map (FIRM) dated October 15, 1982, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in subsection (C). In all areas covered by this article no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the chairman and board or its duly designated representative under such safeguards and restrictions as the chairman and board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 10-505 through 10-507.

B. *The Enforcement Officer.* The utilities superintendent of the community is hereby designated as the community's duly designated enforcement officer under this article.

C. *Rules for Interpretation of District Boundaries.* The boundaries of the Floodway and Flood Fringe Overlay Districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Planning and Zoning Commission 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 or her case to the Planning and Zoning Commission and to submit his or her own technical evidence, if he or she 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 article and other applicable regulations.

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

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

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

H. *Severability.* If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder

of this article shall not be affected thereby.

I. *Appeal.* Where a request for a permit to develop or a variance is denied by the utilities superintendent, the applicant may apply for such permit or variance directly to the Planning and Zoning Commission.

### **SECTION 10-503: 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 10-512.

B. *Administration.* The utilities superintendent is hereby appointed to administer and implement the provisions of this article. Duties of the utilities superintendent shall include, but are not limited to:

1. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.
2. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
4. 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.
5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
6. 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.
7. 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.

8. When floodproofing is utilized for a particular structure, the utilities superintendent 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 or her authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the utilities superintendent.

#### **SECTION 10-504: ESTABLISHMENT OF ZONING FLOODPLAIN DISTRICTS**

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: Floodway Overlay District (FW) and Flood Fringe Overlay District (FF) as identified in the Flood Insurance Study (and accompanying maps). Within these districts all uses not meeting the standards of this article and those standards of the underlying zoning district shall be prohibited.

#### **SECTION 10-505: 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 Section

10-506. 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.

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 1 foot at any location as shown on the Flood Insurance Study.

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 (1) all such proposals are consistent with the need to minimize flood damage, (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (3) adequate drainage is provided so as to reduce exposure to flood hazards, and (4) proposals for development (including proposals for manufactured home parks and subdivision) of 5 acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

### **SECTION 10-506: FLOOD FRINGE OVERLAY DISTRICT (INCLUDING AO AND AH ZONES)**

*A. Permitted Uses.* Any use permitted in Section 10-507 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 10-505 are met.

*B. Standards for the Flood Fringe Overlay District.*

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above 1 foot above the base flood elevation.
2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above 1 foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the utilities superintendent as set forth in Section 10-503(B)(7).
3. 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 1 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 1 foot above grade. Openings may be equipped with screens, louvers, valves or other cover-

ings or devices provided that they permit the automatic entry and exit of floodwaters.

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

D. *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 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:
  - 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 are 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 are 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 1 foot above the base

flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (D)(1) above.

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 (D)(2) above be elevated so that either:
  - a. The lowest floor of the manufactured home is at or above 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 (D)(1) above.

E. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (a) be on the site for fewer than 180 consecutive days, (b) be fully licensed and ready for highway use, or (c) meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this article. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

F. Located within the areas of special flood hazard established in Section 10-502(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 1 foot above the depth number specified in feet on the community's FIRM (at least 2 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 1 foot above the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
  - b. Together with attendant utility and sanitary facilities, be completely

floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 10-503(B)(7).

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

### **SECTION 10-507: FLOODWAY OVERLAY DISTRICT**

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

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

B. *Standards for the Floodway Overlay District.* New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Sections 10-505 and 10-506. In zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or Section 10-505(F)(4) in meeting the standards of this section.

### **SECTION 10-508: VARIANCE PROCEDURES**

A. The Planning and Zoning Commission as established by the Village of DeWitt shall hear and decide appeals and requests for variances from the requirements of this article.

B. The commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the utilities superin-

tendent in the enforcement or administration of this article.

C. Any person aggrieved by the decision of the commission or any taxpayer may appeal such decision to the District Court.

D. In passing upon such applications, the Planning and Zoning Commission shall consider all technical evaluation, all relevant factors, standards specified in other sections of this section, 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 items (2) through (6) 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 not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. The applicant shall be given a written notice over the signature of a community official that (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

#### **SECTION 10-509: NONCONFORMING USE**

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

1. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this article. The Utilities Department shall notify the utilities superintendent 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% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

### **SECTION 10-510: PENALTIES FOR VIOLATION**

A. Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants or variances or special exceptions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not less than \$100.00 and not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day that such violation continues shall be considered a separate offense.

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

### **SECTION 10-511: AMENDMENTS**

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

### **SECTION 10-512: DEFINITIONS**

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

"Appeal" means a request for a review of the utilities superintendent's interpretation of any provision of this article 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 1% or greater annual chance of flooding to an average depth of 1 to 3 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 1% chance of being equaled or exceeded in any given year.

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

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

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

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

"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 and (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 1% 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 "flood").

"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 1 foot.

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

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

"Historic structure" means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the secretary of the interior, or (2) directly by the secretary of the interior in states without approved programs.

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

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

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

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for 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% 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 1% or greater chance of flooding in any given year.

"Start of construction" (for other than new construction or substantial improvements under the coastal Barrier Resources Act [Pub. L. 97-348]) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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 (1) land preparation such as clearing, grading and filling; (2) installation of streets and/or walkways; (3) excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor (4) 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% 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% 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 article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

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



## Article 6 – Group Homes

### SECTION 10-601: DEFINITIONS

For the purposes of this article, unless the context otherwise requires, "group home" shall mean a facility licensed by the State of Nebraska in which at least four but not more than eight persons, not including resident managers or house parents who are unrelated by blood, marriage or adoption reside while receiving therapy, training or counseling for the purposes of adaptation to living with or in rehabilitation of mental or physical disabilities. (Ord. Nos. 303, 9/2/80; 493, 12/5/89)

### SECTION 10-602: ESTABLISHMENT; EXCEPTIONS

A group home as defined herein may be established and operated in any residential zone within the exercised zoning jurisdiction of the village, except as limited as follows:

A. Departments and agencies of the state are prohibited from licensing a new group home if it will be within 1,200 feet of an existing group home, unless the Village Board grants the proposed facility a conditional or special use permit. For purposes of this section, "existing group home" shall include, in addition to group homes defined in Section 10-601, a home of any size which serves other populations, including but not limited to correctional homes and homes which serve people recuperating from the effects of drugs or alcohol, mental illness or physical disability.

B. Pursuant to subsection (C) herein, the number of group homes established in the village shall be limited according to the population of the village, as follows:

1. For the village with a population of 1,000 residents or fewer, one group home may be established;
2. For a village with of population of more than 1,000 and less than 10,000 residents, one group home may be established for every 2,000 residents;
3. For a village with a population of at least 10,000 residents but less than 50,000 residents, one group home may be established for every 3,000 residents.

C. The Village Board may issue a variance to allow additional group homes.  
(Ord. No. 303, 9/2/80)



## **Article 7 – Penal Provision**

### **SECTION 10-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Neb. Rev. Stat. §17-505) (Am. Ord. Nos. 656, 9/2/03; 667, 9/2/03)