ORDINANCE NO: 500

AN ORDINANCE OF THE CITY OF TERRYTOWN, NEBRASKA, AMENDING THE MUNICIPAL CODE CHAPTER 9 ARTICLE 7 BY DEFINING FLOODPLAIN MANAGEMENT, PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF TERRYTOWN, NEBRASKA.

Section 1: Chapter 9 Article 7 of the Terrytown Municipal Code is amended to provide as follows:

Article 7 – Floodplain management

(Ord. No. 431, Ord. No. 500 6/11/26)

SECTION 9-701: STATUTORY AUTHORIZATION; FINDINGS; 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. In Neb. Rev. Stat. §§ 31-1001 to 31-1022, the Legislature has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the City of Terrytown with zoning jurisdiction over the flood-prone area. Therefore, the City establishes the regulations entered in this Article.

B. *Findings of Fact.*

1. *Flood Losses Resulting from Periodic Inundation*. The flood hazard areas of Terrytown 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 the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and 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 article uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

a. Selection of a base 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 selected for this Article 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 in the official flood plain study, and illustrative materials dated April 15, 1980 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 increase in flood height.

e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

C. *Statement of Purpose*. It is the purpose of this Article to promote public health, safety, and general welfare and to minimize those losses described in Section 9-701 B(1) 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

when identified by the Federal Insurance Administration as a flood prone community.

SECTION 9-702: GENERAL PROVISIONS

A. *Lands to which Article Applies*. This Article shall apply to all lands within the jurisdiction of the City of Terrytown, identified on the Flood Insurance Rate Map (FIRM) Firm panel 3102070001B (04/15/1980) and Flood Boundary and Floodway Map 3102070001 (04/15/1980) as numbered and unnumbered A Zones and/or within the Zoning Districts FW and FF established in Section 9-704 of this Article. In all areas covered by this Article, no development shall be permitted except upon a permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as they 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 9-705, 9-706, and 9-707.

B. *Enforcement Officer*. The City zoning administrator of the community is hereby designated as the City Council's duly designated enforcement officer under this Article.

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

D. *Compliance*. No development located within known flood hazard areas of the community 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 articles or Articles inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

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

G. *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 City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

H. *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 such districts will be free from flooding or flood damage. This Article shall not create liability on the part of the City of Terrytown or any officer or employee thereof for any flood damage that may result from reliance on this Article or any administrative decision lawfully made thereunder.

SECTION 9-703: DEVELOPMENT PERMIT

A. *Permit Required.* No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 9-712.

B. *Administration.*

1. The City zoning administrator is hereby appointed to administer and implement the provisions of this Article.

2. Duties of the City zoning administrator shall include but not be limited to:

a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this Article have been satisfied.

b. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions as well as all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this Article have been satisfied.

c. 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.

d. Notify adjacent communities and the Nebraska Department of Water, Energy, and Environment, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration when participating in the Natural Flood Insurance Program.

e. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

f. 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.

g. 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.

h. When floodproofing is utilized for a particular structure the City zoning administrator 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 permit.

2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use or occupancy for which the proposed work is intended.

4. Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.

5. Give such other information as reasonably may be required by the City zoning administrator.

SECTION 9-704: ESTABLISHMENT OF ZONING DISTRICTS

The mapped floodplain area within the jurisdiction of this Article is hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study 310207V000 dated (04/15/1980). Within these districts all uses not meeting the standards of this Article and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

SECTION 9-705: STANDARDS FOR FLOODPLAIN DEVELOPMENT

A. No permit for development shall be granted for new construction, substantial improvement and other improvements including the placement of manufactured homes within the identified flood plain unless the conditions of this section are satisfied.

B. All areas identified as unnumbered A zones by the Federal Insurance Administration are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this Article. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently avail-able within its area of jurisdiction.

C. 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 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 one (1) foot above the regulatory flood elevation.

5. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.

6. *Storage of Material and Equipment.*

    a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

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

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

SECTION 9-706: FLOOD FRINGE OVERLAY DISTRICT (AO AND AH ZONES)

A. *Permitted Uses.* Any use permitted in Section 9-707 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 9-705 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 one (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 official as set forth in Section 9-703.2(g).

3. For all new construction, substantially improved, or substantially damaged structures, fully enclosed areas below the lowest floor (excluding basements) and below one (1) foot above the base flood evaluation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than 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 coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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

5. *Manufactured Homes.*

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

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

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

4. Any additions to the manufactured home be similarly anchored.

b. Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (a) herein.

6. Located within the areas of special flood hazard established in Section 9-702 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:

a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM. If no depth number is specified on the FIRM, at least as high as three (3) feet above the highest adjacent grade.

b. All new construction and substantial improvements of non-residential structures shall:

1. Have the lowest floor elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM. If no depth number is specified on the FIRM, at least as high as three (3) feet above the highest adjacent grade, or

2. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 9-703.B,2.(g).

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

7. 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.

SECTION 9-707: FLOODWAY USES

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 any other Article. 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 nature 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 Section 9-705 and 9-706. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through

federal, state or other sources or Section 9-705 C(7) of this Article, in meeting the standards of this section.

SECTION 9-708: VARIANCE PROCEDURES

A. The Board of Adjustment, as established by the City of Terrytown, shall hear and decide appeals and requests for variances from the requirements of this Article.

B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City zoning administrator in the enforcement or administration of this Article.

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

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

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
    a. The safety of access to the property in times of flood for ordinary and emergency vehicles;

    b. 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

    c. 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, provided that subsections 2-6 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 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.

3. Variances shall not be issued within any designated floodway if any increase in flood levels 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 Articles.

6. 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.

SECTION 9-709: NONCONFORMING USE

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the Article or its predecessor, Ordinance 221 passed on June 30, 1987 or Ordinance 431 passed on April 2, 2015, but which is not in conformity with the provisions of this Article may be continued subject to the following conditions:

1. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

2. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this Article. The Utility Department shall notify the City zoning administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of six months.

3. 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, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

SECTION 9-710: 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 of variances or special exceptions) shall constitute a misdemeanor. A structure or other development without a floodplain development permit elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided. Any person who violates this Article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $100.00, and in addition, shall pay all costs and expenses involved in the case. Each day that such violation continues shall be considered a separate offense.

B. Notices. When the floodplain administrator or other authorized City representative determines, based on reasonable grounds, that there has been a violation of the provisions of this Article, they shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. Be in writing;

2. Include a location and description of the development;

3. Include an explanation of the alleged violation, including a reference to the local, state, or federal regulation the development is allegedly violating;

4. Provide an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this Article;

5. Allow a reasonable time for the performance of any remedial act required.

6. Include a warning of the penalty that may ensue for any unresolved confirmed violations;

7. Include contact information for City's designated floodplain administrator or other authorized City representative; and

8. Be served upon the property owner or their agent as the case may require

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

SECTION 9-711: AMENDMENTS

The regulations, restrictions, and boundaries set forth in this Article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. The regulations of this Article are in compliance with the National Flood Insurance Program Regulations as published in the Federal Register, Volume 41, No. 207, dated October 26, 1976, and the 1967 Nebraska Flood Plains Regulations Act.

SECTION 9-712: 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:

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

"Appeal" means a request for a review of the City zoning administrator'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.

“Area of special flood hazard” means the land in the flood plain within a community subject to 1% or greater change of flooding in any given year.

"Base flood" means the flood having 1% chance of being equaled or exceeded in any given year.

“Base flood elevation” means the elevation indicated in the official flood plain study as the elevation of the 100-year flood.

“Base flood protection elevation” means an elevation 1 foot higher than the water surface elevation of the base flood.

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

“Channel” means a natural or artificial watercourse of perceptible extent with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of a defined channel.

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

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

"Existing construction" means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before

January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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

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

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from a) the overflow of inland or tidal waters and b) 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 (FIS)" means an examination, evaluation, and determination of flood hazards and , if appropriate, corresponding water surface elevations.

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

"Flood plain management" means the operation of an overall program of corrective and preventative measures for reducing flood damage including, but not limited to, emergency preparedness plan, flood control works, and flood plain management regulations.

"Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such regulations which provide standards for the purpose of flood damage prevention and reduction.

"Flood proofing" means any combination of structural or non-structural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

"Flood protection system" means those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes.

These specialized modifying works are those constructed in conformance with sound engineering standards.

"Floodway" (FW) means the channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than 1 foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

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

"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. For flood plain management purposes, "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, "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.

"New construction" means structures for which the start of construction or substantial improvement is commenced on or after the effective date of the FIRM.

"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 which acts in conjunction with the underlying zoning district(s).

"Post-FIRM Structure" is a building that was constructed or substantially improved after December 31, 1974, or on or after the community's initial FIRM dated 4/15/1980, whichever is later.

"Pre-FIRM Structure" is a building that was constructed or substantially improved on or before December 31, 1974, or before the community's initial FIRM dated 4/15/1980, whichever is later.

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

“Special Flood Hazard Area (SFHA)” means the floodplain within a community subject to a one(1) percent or greater chance of flooding in any given year.

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

"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 repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (a) before the improvement or repair is started or (b) if the structure has been damaged and is being restored, before the damage occurred. “Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. 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 structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"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 this ordinance and the flood plain management rules and regulations.

"Watercourse" is any depression two(2) feet or more below the surrounding land that serves to give direction to a current water at least nine (9) months of the year and that has a bed and well-defined banks.

"100-year flood" means the base flood having a 1% change of annual occurrence."

Section 2. All other ordinances and parts of ordinances in conflict herewith are repealed; provided, however, this ordinance shall not be construed to affect any rights, liabilities, duties or causes of action, either criminal or civil, existing or pending at the time when this Ordinance becomes effective.

Section 3. This Ordinance shall become effective upon its passage and approval as provided by law, and publication shall be in pamphlet form.

PASSED AND APPROVED THIS 11th DAY OF JUNE, 2026

Mayor, Chris Perales

Attest:

CITY CLERK Seal TERRYTOWN, NEBRASKA

City Clerk, Jeni Mattern