

# **BUILDING**

## **Article I. GENERAL PROVISIONS**

### **Sec. 1. INTERPRETATION**

The construction, maintenance, alteration, conversion, moving, repair, use or occupancy of buildings, including structures in connection therewith, shall conform to the requirements, specifications and standards as hereinafter set forth in this Ordinance or by reference when this Ordinance adopts the provisions of printed pamphlets or books. The number or letter designations used to set off or identify its various parts refer to sections, sub-sections, paragraphs, rules, regulations, or other divisions of the text to which the reference is made. Reference to any of these parts may be by such designation alone.

### **Sec. 2. ADMINISTRATION ENFORCEMENT**

The duly elected qualified and acting President and Board of Trustees of the Village of Downs, shall constitute the building officials and the proper administration for the enforcement of this Ordinance.

### **Sec. 3. PERMITS - APPLICATION FOR**

- a. It is hereby required that a permit be obtained from the Building Committee in advance before any person shall proceed with the construction, alteration, conversation, moving, structural repair or demolition, interior or exterior, of any structure or any appurtenance thereto, or make any excavation therefore within the corporate limits now existing or hereafter extended, or the placing of any material for such purposes upon the location, or the occupancy of any sidewalk, parking, street, or alley. The refusal, failure or neglect to obtain such permit shall be unlawful.
- b. Application for permit as required in this Article shall be made by the owner or lessee or by the architect, builder or any other duly authorized representative of the owner or lessee; such application shall be made upon a blank furnished by the Building Committee and shall state the legal description, of the location, character of construction, proposed location of the structure on the lots as described, name of owner and builder, purpose for which such structure is to be used, and the total estimated cost of the proposed structure.
- c. The said attested statement and application, together with the plans and specifications, as hereinafter provided, shall be kept on file in the office of the Village Clerk as a part of the records of said office.
- d. In all cases where the estimated cost of proposed work and material exceeds two thousand dollars (\$2,000.00), the application shall be accompanied by plans or drawing and specifications sufficient to show that the minimum requirements of this Ordinance will be met.

**Sec. 4. PERMITS - REVOCATION**

- a. If actual work is not commenced under any permit issued by reason of this Ordinance within three (3) months from date of permit, or if building operations under any permit are suspended for a period of three (3) months, such permit shall become void.
- b. Should the Building Committee find that the work under any permit issued under the provisions of this Ordinance is not proceeding in accordance with the plans, specifications or drawings, or application upon which permit was issued, but is proceeding in violation to the law and Ordinances, it shall be his duty to notify such person in charge that the work fails to conform to the permit and Ordinance, and that failure must be corrected without delay.
- c. If such person in charge fails or refuses to make the corrections, it shall be the further duty of the Building Committee to revoke such permit and to serve notice thereof on such persons. It shall be unlawful for any persons to proceed with any part of such work after such notice has been served.

**Sec. 5. PERMITS - FEES**

- a. Fees for building permits shall be established by the Village Board of Trustees.
- b. Water used in construction under permit is to be paid for at the time the permit is issued on a flat rate basis, as determined by the Village Board.
- c. The permit and other fees as may be established by Ordinance or Resolution of the Village Board shall be collected by the duly appointed Building Committee and accounted for by the Village Treasurer.

**Sec. 6. PERMITS - OCCUPANCY**

- a. No person or persons shall be allowed to occupy any newly constructed home until an occupancy permit has been issued by the Village Building Inspector. The certificate of occupancy shall be issued only after the home has been erected in conformance with the provisions of these ordinance and other health and building laws, and in accordance with the building permit.
- b. A declaration of final occupancy may be issued within three (3) days after the completion of the inspection by the Village Building Inspector. The declaration shall be inclusive, citing reasons as to either approval of occupancy or denial.

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Village Building Inspector may also issue a temporary occupancy permit which may list matters to be completed in the future within a reasonable time.

- c. If the occupancy permit is denied, the Village Building Inspector shall notify the contractor of the denial in writing within 24 hours of the inspection.
- d. If upon completion of the second final inspection the occupancy permit is denied, a fee of \$50.00 shall be assessed to the contractor for each additional inspection required until the property is brought into compliance with the provisions of ordinance 99-02 and other health and building laws, and in accordance with the building permit.
- e. No final occupancy permit shall be issued until all fees, additional fees and fines required under ordinance 99-02 are paid in full.
- f. In the event work is not completed in a timely fashion as provided for in a temporary occupancy permit, a fine of not less than \$50.00 and no more than \$1,000.00 may be levied by the Village Building Inspector against either or both the premises owner or occupant. This fine may be collected by the Village

through

a civil court proceeding. The party against whom the fine is imposed shall also be obligated to pay the reasonable attorney fees and court costs of the Village in such civil court proceeding.

## Sec. 7. BUILDING CODE

- a. **Adoption of International Building Code/2003.** There is hereby adopted by the Village Board of Trustees for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment installation, use and occupancy, location and maintenance of building and structures, including permits and penalties, a Building Code known as the International Building Code/1993 published by the International Code Council, Inc.
- b. **Adoption of International Residential Code/2003.** There is hereby adopted by the Village Board of Trustees for the purpose of regulating the fabrication, erection, construction, enlargement, alteration, repair, location and use of detached one and two family dwellings, their appurtenances and accessory structures, including permits and penalties, a Building Code known as the International Residential Code/2003, published by the International Code Council, Inc.
- c. **Adoption of BOCA National Mechanical Code 1987 with 1988 Supplement.** There is hereby adopted by the Village Board of Trustees for the purpose of regulating the design and installation of mechanical systems, including heating systems, ventilation systems, cooling systems, steam and hot water heating systems, hydraulic piping, boiler and pressure vessels, appliances using gas, liquid or solid fuel, chimneys and vents, mechanical refrigeration systems, fireplaces, barbecues, incinerators, crematories, and air quality control systems.
- d. **Adoption of National Electrical Code/1993.** There is hereby adopted by the Village Board of Trustees for the purpose of establishing rules and regulations for the safe and practical installation, alteration and use of electrical equipment, including permits and penalties, that a certain Electric Code known as the National Electric Code as adopted by the National Fire Protection Association, being particularly the 1993 edition.
- e. **Adoption of Life Safety Code 1991.** There is hereby adopted by the Village Board of Trustees a certain Life Safety Code as adopted by the National Fire Protection Association (101) being particularly the 1991 edition.
- f. The provisions of said codes are hereby adopted and incorporated as fully as if set out in length and the provisions thereof shall be controlling in regard to all buildings and structures within the corporate limits of the Village of Downs, Illinois.
- g. **Pole Buildings Prohibited.** It shall be unlawful to construct or cause to be constructed a building or structure commonly known and referred to as a pole building within the corporate limits of the Village of Downs.

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**Sec. 8. RESIDENTIAL FENCING**

- a. No person, firm or corporation shall erect or retain in any area zoned residential within the corporate limits of the Village of Downs, any front yard or side fence in excess of four feet (4) in height.
- b. Front yard fence is any fence along the boundaries of the area from one side lot line to the other side lot line and from the main building to the street.
- c. Rear yard fence is any fence along the boundary of the area from one side lot line to the other side lot line and from the main building to the rear lot line.  
The rear yard is always on the opposite end of the lot from the front yard.
- d. Side yard fence is any fence on the boundary of the area from the front yard line to the rear yard line and from the main building to a side lot line.
- e. Any fence erected or maintained in violation of this Section shall be removed or altered to comply with this Section within 30 days after notification of non-compliance.
- f. If any person, firm, or corporation which retains a fence in violation of this Section thirty (30) days after notification shall be fined no less than one hundred dollars (\$100.00) and no more than five hundred dollars (\$500.00) for each and each day upon which such violation continues shall constitute a separate offense.

**Sec. 9. FINES - PENALTIES**

- a. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists enforcement of any of the provisions of this Article, including provisions adopted by reference, or who refuses to remedy a violation of any such provision or to remedy a hazard of fire, explosion, collapse, contagion or spread of infectious disease found to exist or fully ordered eliminated, shall be fined as designated in accordance to Chapter 1, Article 1, Section 3D.
- b. A person, firm or corporation licensed or registered by the state or a subdivision thereof to do work regulated by this Ordinance or to render professional, architectural or engineering services in connection therewith who violates the law or this Ordinance under which licensed or registered while carrying out such work or rendering service, or it shall be reported to the licensing authority and be subject to proceedings or action to revoke the certificate, license or registration.

**Article II. DANGEROUS BUILDINGS**

**Sec. 1. DEFINITIONS**

- a. The term dangerous Buildings as used in the Article is hereby defined to mean and include:
- (1) Any building, shed, fence, or other man-made structure which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;
  - (2) Any building, shed, fence or other man-made structure which because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire and constitutes or creates a fire hazard;
  - (3) Any building, shed, fence, or other man-made structure which, by injury or damage by collapsing or by a collapse or fall of any part of the such structure;
  - (4) Any building, shed, fence or other man-made structure which because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.
- b. Any dangerous building in the Village is hereby declared to be a nuisance.

**Sec. 2. PROHIBITION**

It shall be unlawful to maintain or permit the existence of any dangerous building in the Village; and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

**Sec. 3. ABATEMENT**

a. Whenever the Building Committee, or the Village Board shall be of the opinion that any building or structure in the Village is a dangerous building, they shall file a written statement to this effect with the Village Clerk. The Clerk shall thereupon

cause written notice to be served upon the owner thereof, and upon the occupant thereof, if any, by registered mail or by personal service. Such notices shall state that the building has been declared to be in a dangerous condition, and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be in the following terms:

b. Such notice may be in the following terms:

“To (owner/occupant of premises) of the premises known and described as \_\_\_\_\_.

You are hereby notified that (described building) on the premises above mentioned, has been condemned as a nuisance and a dangerous building, after inspection by \_\_\_\_\_.

The causes for this decision are (here insert the facts as to the dangerous condition).

You must remedy this condition or demolish the building immediately, or the Village will proceed to do so.”

c. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a dangerous building exists, within sixty (60) days from the time when this notice is served upon such person by personal service or registered mail, the Board of Health or the Building Committee, may upon orders of the President and Board of Trustees, proceed to remedy the condition or demolish the dangerous building.

**Sec. 4. PENALTY**

Any person, firm or corporation violating any provision of this Article, or permitting any dangerous building, or any building, or any building or structure to remain in a dangerous condition, shall be fined as designated in accordance to Chapter 1, Article 1, Section 3D.

## **CHAPTER 11**

### **Article III. BUILDING OPERATIONS**

#### **Sec. 1. USE OF STREETS**

The use of streets for the storage of materials in the process of construction or alteration of a building or structure may be granted where the same will not unduly interfere with traffic and will not reduce the usable width of the roadway to less than eighteen feet, no portion of the street other than that directly abutting on the premises on which work is being done shall file an application for a permit therefor with the Clerk, together with a bond with sureties to be approved by the Clerk to indemnify the Village for any loss or damage which may be incurred by such occupation.

#### **Sec. 2. NIGHT OPERATIONS**

No construction or altering operations shall be carried on in the night time if the same are accompanied by loud noises.

#### **Sec. 3. SIDEWALKS**

No sidewalk shall be obstructed in the course of building construction or alteration without a special permit from the Clerk; and whenever removal of a sidewalk is required, in such work, a special permit from the Clerk shall be obtained.

#### **Sec. 4. SAFEGUARDS**

It shall be the duty of the person or corporation doing any construction, altering or wrecking work in the Village to do the same with proper care for the safety of persons and property. Warnings, barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic; and temporary roofs over sidewalks shall be constructed whenever there is danger from falling articles or materials to pedestrians.

#### **Sec. 5. PENALTY**

Any person, firm or corporation violating any provision of this Article shall be fined as designated in accordance to Chapter 1, Article 1, Section 3D.

Approved: 11/02/95

Revised: 04/08/99



## **CHAPTER 11**

### **Article IV. REGULATING DEVELOPMENT IN FLOODPLAIN AREAS**

#### **Sec. 1. PURPOSE**

- a. To prevent unwise developments from increasing flood or drainage hazards to others.
- b. To protect new buildings and major improvements to buildings from flood damage.
- c. To promote and protect the public health, safety, and general welfare of the citizens from the hazards of flooding.
- d. To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations.
- e. To maintain property values and a stable tax base by minimizing the potential for creating blight areas; and
- f. To make federally subsidized flood insurance available.

## Sec. 2. DEFINITIONS

- a. “Base Flood” The flood having a one-percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section of this ordinance.
- b. “Base Flood Elevation” (BFE) The elevation in relation to mean sea level of the crest of the base flood.
- c. “Building” A structure that is principally above ground and is enclosed by walls and a roof including manufactured homes and prefabricated buildings. The term also includes recreational vehicles and travel trailers to be installed on a site for for more than 180 days.
- d. “Development” Any man-made change to real estate including, but not necessarily limited to:
  - i. construction, reconstruction, or placement of a building, or any addition to a building, exceeding 70 square feet in floor area;
  - ii. substantial improvement of an existing building;
  - iii. installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 days;
  - iv. installation of utilities, construction of roads, bridges, culverts or similar projects;
  - v. construction or erection of levees, dams, walls, or fences;
  - vi. drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
  - vii. storage of materials including the placement of gas and liquid storage tanks; and
  - viii. channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.
- e. “FEMA” Federal Emergency Management Agency.
- f. “Flood” A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- g. “Flood Fringe” That portion of the floodplain outside of the regulatory floodway.

**Sec. 2. (cont.)**

- h. “Flood Insurance Rate Map” A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community.
  - i. “Floodplain” and “Special Flood Hazard Area (SFHA)” are synonymous. Those lands within the jurisdiction of the village that are subject to inundation by the base flood. The floodplains of the Village are generally identified as such on the Flood Insurance Rate Map of McLean County and incorporated areas prepared by the Federal Emergency Management Agency and dated February 9, 2001. The floodplains of those parts of unincorporated McLean County that are within the extraterritorial jurisdiction of the Village or that may be annexed into the Village are generally identified as such on the Flood Insurance Rate Map prepared for McLean County by the Federal Emergency Management Agency and dated February 9, 2001.
- j. “Floodproofing” Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.
- k. Floodproofing Certificate” A form published by the Federal Emergency Management Agency that is used to certify that a building designed and constructed to be structurally dry floodproofed to the flood protection elevation.
- l. “Flood Protection Elevation” or “FPE” The elevation of the base flood plus one foot of freeboard at any given location in the floodplain.
- m. “Floodway” That portion of the floodplain required to store and convey the base flood. The floodways for each of the floodplains of the Village shall be according to the best data available from Federal, State, or other sources.
- n. “IDNR/OWR” Illinois Department of Natural Resources/Office of Water Resources.
- o. “Manufactured Home” A structure transportable in one or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.
- p. “NFIP” National Flood Insurance Program.
- q. “SFHA” See definition of floodplain.

**Sec. 2. (cont.)**

- r. “Substantial Improvement” Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent 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 comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.
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- s. “Travel Trailer (or Recreational Vehicle)” A vehicle which is:
- (i) built on a single chassis;
  - (ii) 400 square feet or less in size;
  - (iii) designed to be self-propelled or permanently towable by a light duty truck; and
  - (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

### **Sec. 3. BASE FLOOD ELEVATION**

This ordinance's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party may finance the detailed engineering study needed to replace the existing data with better data and submit it to the Federal Emergency Management Agency for approval.

- a. The base flood elevation for each of the floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of the village shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.
- b. The base flood elevation for each of the floodplains of those parts of unincorporated McLean County that are within the extraterritorial jurisdiction of the Village or that may be or have been annexed into the Village shall be according to the best data available from federal, state or other sources.

### **Sec. 4. DUTIES OF THE BUILDING CHAIRPERSON**

The Building Chairperson shall be responsible for the general administration of this ordinance and ensure that all development activities within the floodplains under the jurisdiction of the Village meet the requirements of this ordinance. Specifically, the Building Chairperson shall:

- a. Process development permits in accordance with Section 5;
- b. Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 6;
- c. Ensure that the building protection requirements for all buildings subject to Section 7 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;
- d. Assure that all subdivisions and annexations meet the requirements of Section 8;
- e. If a variance is requested, ensure that the requirements of Section 9 are met and maintain documentation of any variances granted;
- f. Inspect all development projects and take any and all actions outlined in Section 11 as necessary to ensure compliance with this ordinance;
- g. Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- h. Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- i. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- j. Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this ordinance;
- k. Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this ordinance.

## **Sec. 5. DEVELOPMENT PERMIT**

No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the floodplain without first obtaining a development permit if the proposed development does not meet the requirements of this ordinance.

- a. The application for development permit shall be accompanied by:
  - i. drawings of the site, drawn to scale showing property line dimensions;
  - ii. existing grade elevations and all changes in grade resulting from excavation or filling;
  - iii. the location and dimensions of all buildings and additions to buildings; and
  - iv. the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 7 of this ordinance.
- b. Upon receipt of an application for a development permit, the Building Chairperson shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the base flood elevation as of the date of the site's first Flood Insurance Rate Map identification is not in the floodplain and therefore not subject to the requirements of this ordinance. This Building Chairperson shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

**Sec. 6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES**

Within the Village's floodplains, the following standards shall apply:

- a. except as provided in Section 6b, no development shall be allowed which acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:
  - i. Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit No. 3;
  - ii. Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 4;
  - iii. Minor boat docks meeting the conditions of IDNR/OWR Statewide Permit No. 5;
  - iv. Minor, non-obstructive activities meeting the conditions of IDNR/OWR Statewide Permit No. 6;
  - v. Outfall structures and drainage ditch outlets meeting the conditions of IDNR/OWR Statewide Permit No. 7;
  - vi. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8;
  - vii. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9;
  - viii. Accessory structures and additions to existing residential buildings meeting conditions of IDNR/OWR Statewide Permit No. 10;
  - ix. Minor maintenance dredging activities meeting the conditions of IDNR/OWR Statewide Permit No. 11; and
  - x. Any development determined by IDNR/OWR to be located entirely in a flood fringe area.
- b. Other development activities not listed in (a) may be permitted only if:
  - i. a permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); and
  - ii. sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

## Sec. 7. PROTECTING BUILDINGS

a. In addition to the damage prevention requirements of Section 6, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the

following

situations:

- i. construction or placement of a new building valued at more than \$1,000;
- ii. substantial improvements made to an existing building;
- iii. structural alterations made to an existing building that increase the floor area by more than 20%;
- iv. installing a manufactured home on a new site or a new manufactured

home

on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied

before

it was removed to avoid flood damage); and

- v. installing a travel trailer on a site for more than 180 days.

b. Residential or non-residential buildings can meet the building protection requirements by one of the following methods:

- i. The building may be constructed on permanent land fill in accordance with the following:
  - (1) the lowest floor (including basement) shall be at or above the flood protection elevation;
  - (2) the fill shall be placed in layers no greater than one foot before compaction and should extend at least ten feet beyond the foundation before sloping below the flood protection elevation;
  - (3) the fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;
  - (4) the fill shall be composed of rock or soil and not incorporate debris or refuse materials; and,
  - (5) the fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary, stormwater management techniques such as swales or basins shall be incorporated; or
- ii. The building may be elevated in accordance with the following:
  - (1) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;
  - (2) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
  - (3) If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a registered professional engineer or by having a minimum of one permanent openings on each wall no more than one foot above grade. The openings shall provide a total



net area of not less than one square inch for every one square foot of enclosed area subject to flooding below the base flood elevation;

**Sec. 7. (cont.)**

- (4) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to hydrodynamic forces as current, waves, ice and floating debris;
  - (5) The finished interior grade shall not be less than the finished exterior grade;
  - (6) All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;
  - (7) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed; and
  - (8) The area below the flood protection elevation shall be used solely for parking or building access and not occupied as habitable space.
- c. Manufactured homes, or travel trailers to be installed on site for more than 180 days, shall be:
- i. elevated to or above the flood protection elevation; and
  - ii. shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 IL Adm. Code 870.
- d. Non-residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a registered professional engineer or architect certifies that:
- i. below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood;
  - ii. the building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice; and
  - iii. floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
- Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

## **Sec. 8. SUBDIVISION AND OTHER DEVELOPMENT REQUIREMENTS**

The Village board shall take into account flood hazards, to the extent that they are known, in all official actions related to land management use and development.

- a. New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of Sections 6 and 7 of this ordinance. Any proposal for such development shall include the following data:
  - i. the base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
  - ii. the boundary of the floodway when applicable; and
  - iii. a signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 IL Compiled Statutes 205/2).
- b. Public health standards must be met for all floodplain development. In addition to the requirements of Sections 6 and 7, the following standards apply;
  - i. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of Section 7 of this ordinance.
  - ii. Public utilities and facilities such as sewer, gas, and electric shall be located and constructed to minimize or eliminate flood damage;
  - iii. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
  - iv. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
- c. All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

## **Sec. 9. VARIANCES**

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Building Chairperson for a variance. The Building Chairperson shall review the applicant's request for a variance and shall submit its recommendation to the Village Board. The Village Board may attach such conditions to granting of a variance as it deems necessary to further the intent of this ordinance.

- a. No variance shall be granted unless the applicant demonstrates that:
  - i. the development activity cannot be located outside the floodplain;
  - ii. an exceptional hardship would result if the variance were not granted;
  - iii. the relief requested is the minimum necessary;
  - iv. there will be no additional threat to public health or safety, or creation of a nuisance;
  - v. there will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;
  - vi. the applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
  - vii. all other required state and federal permits have been obtained.
- b. The Village Board shall notify an applicant in writing that a variance from the requirements of the building protection standards of Section 7 that would lessen the degree of protection to building will:
  - i. result in increased premium rates for flood insurance up to \$25 for \$100 of insurance coverage;
  - ii. increase the risks to life and property; and
  - iii. require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

Variances to the building protection requirements of Section 7 of this ordinance requested in connection with the reconstruction, repair or alteration of site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirement of Subsection 9 (a)(i-v).

## **Sec. 10. DISCLAIMER OF LIABILITY**

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of the Village or any officer or employee thereof for any flood damage that results proper reliance on this ordinance or any administrative decision made lawfully thereunder.

## **Sec. 11. PENALTY**

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this ordinance. Upon due investigation, the Village attorney may determine that a violation of the minimum standards of this ordinance exists. The Village attorney shall notify the owner in writing of such violation.

- a. If such owner fails after ten days notice to correct the violation:
  - i. The village shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance;
  - ii. Any person who violates this ordinance shall upon conviction thereof be fined not less than twenty-five (\$25.00) nor more than two-hundred dollars (\$200.00); and
  - iii. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- b. The Village attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- c. Nothing herein shall prevent the Village from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

## **Sec. 12. ABROGATION AND GREATER RESTRICTIONS**

This ordinance repeals and replaces other ordinances adopted by the Village Board to fulfill the requirements of the Nation Flood Insurance Program including: Ordinance No. 2000-02 and Ordinance No. 2000-12. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 13. SEPARABILITY**

The provisions section of this article shall be deemed separable and the invalidity of any portion of this article shall not affect the validity of the remainder.