TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. COMPREHENSIVE PLAN

CHAPTER 150: BUILDING REGULATIONS

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BUILDING PERMITS AND REGULATIONS

§ 150.01 REQUIREMENT.

Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a building permit. Any person desiring to erect a fence shall also file an application for a building permit with the Clerk. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. The application, plans, and specifications so filed with the Municipal Clerk shall be checked and examined by the Board of Trustees, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the Board of Trustees shall authorize the Municipal Clerk to issue the applicant a permit. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. At the sole discretion of the Board of Trustees, the village has the right to request a survey of the property upon which the construction or relocation is to take place. Survey will be at the owner's expense.
(Am. Ord., passed 10-14-02) Penalty, see § 10.99
Statutory reference:
Authority for specific safety-related regulations, see Neb. RS 17-550
Extra-territorial jurisdiction, see Neb. RS 17-1001

§ 150.02 LIMITATION.

If the work for which a permit has been issued shall not have begun within six months of the date thereof, or if the construction is discontinued for a period of six months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit. Penalty, see § 10.99

§ 150.03 DUPLICATE TO COUNTY ASSESSOR.

Whenever a building permit is issued for the erection, alteration, or repair of any building within the municipality's jurisdiction, and the improvement is $2,500 or more, a duplicate of such permit shall be issued to the County Assessor.
(Neb. RS 18-1743)

ORDINANCE NO. 150.03.01

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF GILTNER, NEBRASKA TO ADOPT AN AMENDMENT TO CHANGE THE DOLLAR AMOUNT OF CODE # 150. 03

Change shall be $2500 or more, replacing $1000 or more

WHEREAS, procedures to amend Code #150.03 in Nebraska Revised State Statute 18-1743 have been met;

THEREFORE BE IT ORDAINED, that the above written amendment change to Code #150.03 be added to the Giltner Village Code

Any other ordinance or section passed and approved prior to passage and approval of this ordinance and in conflict with its provisions is repealed.

This ordinance shall take effect and be in full force from and after its passage, approval, and required posting and or publication as required by law.

Chairperson

Charlynn Kral Krcilek
Village Clerk

Date: Dec. 10, 2007

(SEAL)

§ 150.04 BARRICADES AND LIGHTS.

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the municipality to have during such work all excavations, open basements, building materials, and debris protected by suitable guards or barricades by day, and by warning lights at night. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the municipal police, County Sheriff or the Building Inspector shall stop all work until guards are erected and maintained as required.

MOVING OF BUILDINGS

§ 150.20 REGULATIONS.

It shall be unlawful for any person, firm, or corporation to move any building or structure within the municipality without a written permit to do so. Application may be made to the Municipal Clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Board of Trustees may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the building is presently located. The Municipal Clerk shall refer the application to the Board of Trustees for approval of the proposed route over which the building is to be moved. Upon approval of the Board of Trustees, the Municipal Clerk shall then issue the permit, provided that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Board of Trustees and conditioned upon moving the building without doing damage to any private or municipal property is filed with the Municipal Clerk prior to the granting of any permit. No moving permit shall be required to move a building that is ten feet wide or less, and 20 feet long or less, and when in a position to move, 15 feet high or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the poles, wires, or line shall upon proper notice of at least 24 hours, be present and assist by disconnecting the poles, wires, or line relative to the building moving operation. All expense of the disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the municipality, notice in writing of the time and route of the building moving operation shall be given to the various municipal officials in charge of the municipal utility departments who shall proceed in behalf of the municipality and at the expense of the mover to make such disconnections and do such work as is necessary.

Penalty, see § 10.99

Statutory reference:

Vehicle size, weight, and load regulations, see Neb. RS 60-6,288 through 60-6,299

§ 150.21 DEPOSIT.

At such time as the building moving has been completed, the building inspector or other designated official shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the relocation and whether any municipal laws have been violated during the operation. Upon a satisfactory report from the building inspector or other designated official, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Board of Trustees may apply the money deposited for the purpose of defraying the expense of correcting the conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by the Board of Trustees, as required herein, the Board of Trustees may recover such excess expense by civil suit or otherwise as prescribed by law.

UNSAFE BUILDINGS

§ 150.40 DEFINITION.

(A) The term ***UNSAFE BUILDING*** as used in this subchapter is hereby defined to mean and include any building, shed, fence, or other man-made structure:

(1) 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) 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; or

(3) Which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure.

(B) Any such unsafe building in the municipality is hereby declared to be a nuisance.

§ 150.41 PROHIBITIONS.

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

Penalty, see § 10.99

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 150.42 DETERMINATION; NOTICE.

(A) Whenever the Board of Health or designated official is of the opinion that any building or structure in the municipality is an unsafe building, he or she shall file a written statement to this effect with the Municipal Clerk. The Clerk shall thereupon cause the property to be posted accordingly, shall file a copy of such determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service.

(B) Such notice shall state that the building has been declared to be in an unsafe condition, 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 remedied within 60 days from the date of receipt. 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 _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance 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 within 60 days from the date of receipt of this notice or the municipality will proceed to do so. Appeal of this determination may be made to the Board of Trustees, acting as the Board of Appeals, by filing with the Municipal Clerk within ten days from the date of receipt of this notice a request for a hearing."

(C) If the person receiving the notice has not complied therewith within 60 days from the date of receipt of such notice, or taken an appeal from the determination that a dangerous building exists within ten days from the time when this notice is served upon such person by personal service or certified mail, the Building Inspector or other designated official may, upon orders of the Board of Trustees, proceed to remedy the condition or demolish the unsafe building.

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 150.43 HEARING AND APPEAL.

Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Municipal Clerk request a hearing before the Board of Trustees, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The Board of Trustees shall grant such hearing within ten days from the date of receiving the request. A written notice of the Board of Trustees' decision following the hearing shall be sent to

the property owner by certified mail. If the Board of Trustees rejects the appeal, the owner shall have 60 days from the sending of the decision to begin repair or demolition and removal. If after the 60-day period the owner has not begun work, the Board of Trustees shall proceed to cause such work to be done, provided that the property owner may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Board of Trustees shall be stayed. Where the municipality has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply.

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

§ 150.44 EMERGENCY.

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons and the owner fails to remedy the situation in a reasonable time after notice to do so, the municipality may summarily repair or demolish and remove such building or structure.

§ 150.45 SPECIAL ASSESSMENTS.

(A) If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Board of Trustees.

(B) The Board of Trustees may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located; or

(2) Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(C) Any such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

Statutory reference:

Authority to prevent and abate nuisances and unsafe buildings, see Neb. RS 18-1720, 18-1722, and 18-1722.01

BUILDING INSPECTOR

§ 150.60 POWER AND AUTHORITY.

The Building Inspector shall be the municipal official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He or she shall inspect all buildings repaired, altered, built, or moved in the municipality as often as necessary to insure compliance with all municipal ordinances. He or she shall have the power and authority to order, at the direction of the Board of Trustees, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the Board of Trustees, issue permission to continue any construction, alteration, or relocation when the Board of Trustees is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any Deputy Sheriff. In the event that the Board of Trustees fails to appoint a Building Inspector, the County Sheriff shall be the Building Inspector ex officio.

§ 150.61 RIGHT OF ENTRY.

It shall be unlawful for any person to refuse to allow the Building Inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place for the purpose of making official inspections at any reasonable hour.
Penalty, see § 10.99

§ 150.62 PERMIT CARDS.

Upon the issuance of a building permit, the Building Inspector shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit, and the date of issuance. The card shall be prominently displayed on the principal frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made.

§ 150.63 TIME OF INSPECTION.

The Building Inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the municipal code: foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking, and backing is in place and all pipes, chimneys, and vents are complete; and final inspection shall be

made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the Building Inspector.

§ 150.64 APPEAL FROM DECISION.

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

§ 150.65 PLANS, SPECIFICATIONS, PLATS, AND REPORTS; MUNICIPAL OFFICIALS; DUTY.

A municipal official charged with the duty or responsibility of accepting or approving plans, specifications, plats, and reports shall not accept or approve plans, specifications, plats, or reports which have not been prepared in accordance with the Engineers and Architects Regulation Act.
(Neb. RS 81-3447)

CHAPTER 151: COMPREHENSIVE PLAN

Section

151.01 Plan adopted by reference - add 151.01.1 and 151.01.2 - 12/13/04
151.02 Amendment; minimum yard requirements
151.03 Manufactured homes; certain codes excepted
151.04 Fences, walls and hedges
151.05 Ordinance to join Flood Plain Ins. Program
151.06 Flood Plain Management

§ 151.01 PLAN ADOPTED BY REFERENCE.

In order to accommodate anticipated long-range future growth, the Hamilton County Comprehensive Plan is hereby adopted by reference as if set forth fully herein. Three copies of the adopted plan shall be kept on file with the Municipal Clerk and available for inspection by any member of the public during office hours.

§ 151.02 AMENDMENT; MINIMUM YARD REQUIREMENTS.

Section 707 of the Hamilton County Comprehensive Plan is hereby amended to read as follows:

There shall be a front yard of not less than a depth of 30 feet from the lot line or in the line with existing principal structures in the same block. On corner lots principal structures shall be 30 feet from lot line frontings on streets or in line with existing principal structures in the same block. There shall be a rear yard of not less than a depth of 25 feet. Each side yard shall not be less than seven feet. (Ord. 7-707, passed 6-12-00) ↖amended 3/12/12

§ 151.03 MANUFACTURED HOMES; CERTAIN CODES EXCEPTED.

(A) For any or all of the purposes designated in Neb. RS 19-901, the Board of Trustees may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of Neb. RS 19-901 to 19-914 and may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within the districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations applicable to one district may differ from those applicable to other districts.

(B) (1) The Board of Trustees shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed

structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Department of Health and Human Services Regulation and Licensure or the United States Department of Housing and Urban Development. The Village Board shall require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built single-family dwelling on the same lot. The Village Board shall also require that manufactured homes meet the following standards:

(a) The home shall have no less than 900 square feet of floor area;

(b) The home shall have no less than an 18-foot exterior width;

(c) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;

(d) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;

(e) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

(f) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(2) The Village Board may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

(3) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(C) For purposes of this section, manufactured home shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development; or a modular housing unit as defined in Neb. RS 71-1557 bearing the seal of the Department of Health and Human Services Regulation and Licensure.

(D) Subdivision regulations and building, plumbing, electrical, housing, fire, or health codes or similar regulations and the adoption thereof shall be subject to Neb. RS 19-901 to 19-915.
(Neb. RS 19-902)

ORDINANCE NO. 2019-14

AN ORDINANCE TO AMEND AND REPEAL CERTAIN PROVISIONS OF CHAPTER 151: COMPREHENSIVE PLAN OF THE CODE OF GILTNER; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CHAIRPERSON AND THE BOARD OF TRUSTEES OF THE VILLAGE OF GILTNER, NEBRASKA, as follows:

1. Section 151.01 of the Code of Giltner is amended to read as follows:

§151.01 PLAN ADOPTED BY REFERENCE

In order to accommodate anticipated long-range future growth, the Giltner, Nebraska Comprehensive Development Plan 2019, including the Zoning Ordinance of the Village of Giltner, Nebraska, and The Subdivision Regulations of Giltner, Nebraska, all included as part of the Comprehensive Development Plan, are hereby adopted as if set forth herein. The Zoning Ordinance and Subdivision Regulations, pursuant to their own terms (§3.01 of the Zoning Ordinance and §2.01 of the Subdivision Regulations), apply to properties within the corporate limits of the Village as well as within one mile of the Village's corporate boundaries. Three copies of the adopted Plan, including the Zoning Ordinance and Subdivision Regulations, shall be kept on file with the Municipal Clerk and available for inspection by any member of the public during office hours.

2. Section 151.01.1 of the Code of Giltner relating to the designation of the Wellhead Protection Area remains unchanged and in full force and effect as adopted on December 13, 2004.

3. Section 151.01.2 of the Code of Giltner relating to the adoption of the Wellhead Protection Plan remains unchanged and in full force and effect as adopted on December 13, 2004.

4. Section 151.01.03 relating to the Comprehensive Development Plan is hereby repealed.

5. Section 151.01.04 relating to the adoption of the Giltner Zoning and Subdivision Regulations is hereby repealed.

6. Section 151.02 of the Code of Giltner relating to AMENDMENT; MINIMUM YARD REQUIREMENTS is hereby repealed.

7. Section 151.03 of the Code of Giltner is amended to read as follows:

§151.03 MANUFACTURED HOMES; CERTAIN CODES EXCEPTED

(A) For any or all of the purposes designated in Neb. Rev. Stat. §19-901, the Board of Trustees may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of Neb. Rev. Stat. §§19-901 to 19-914 and may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within such districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations applicable to one district may differ from those applicable to other districts.

(B)(1) The Board of Trustees shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development. The Village Board of Trustees may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The Village Board of Trustees may also require that manufactured homes meet the following standards:

(a) The home shall have no less than nine hundred square feet of floor area;

(b) The home shall have no less than an eighteen-foot exterior width;

(c) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;

(d) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;

(e) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

(f) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(2) The Village Board of Trustees may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

(3) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(C) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with national Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in §71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

(D) Subdivision regulations and building, plumbing, electrical, housing, fire, or health codes or similar regulations and the adoption thereof shall not be subject to Neb. Rev. Stat. §§19-901 to 19-915.

8. Section 151.04 of the Code of Giltner relating to FENCES, WALLS AND HEDGES is hereby repealed.

9. This Ordinance shall be in full force and effect immediately from the date of its passage, approval and publication or posting as provided by law and upon proclamation of the Chairperson of the Village Board and the Chairperson of the Village Board is hereby authorized and directed to so proclaim.

10. Any other ordinance or section passed and approved prior to passage, approval and publication of this Ordinance and in conflict with its provisions is hereby repealed.

Passed and approved this 14th day of October, 2019.

Chairperson

ATTEST:

Joan M. Eastman

Joan M. Eastman, Village Clerk

(SEAL)

MOVED FOR FINAL PASSAGE

Read Ordinance by title and Trustee Cody Nuss moved for final passage of Ordinance No. 2019-14. Seconded by Trustee Michaela Goracke.

The Chairperson then instructed the Clerk to call the roll for the vote on final passage of Ordinance No. 2019-14. The Clerk called the roll and the following was the vote on Ordinance No. 2019-14.

Yeas: Schelkopf, Nuss, Goracke, Spotts
Nays: Lindquist
Absent:
Motion: Approved

Trustees of the Village Board, having voted in the affirmative for the passage and approval of said Ordinance No. 2019-14, the Chairperson declared said Ordinance No. 2019-14 duly passed and adopted as an ordinance of the Village of Giltner, Nebraska.

CERTIFICATE OF PASSAGE AND POSTING OF ORDINANCE NO. 2019-14

STATE OF NEBRASKA)
)
COUNTY OF HAMILTON) ss.
)
VILLAGE OF GILTNER)

I, the undersigned, duly elected, qualified and acting Clerk of the Village of Giltner, County of Hamilton, State of Nebraska, do hereby certify:

That the annexed and foregoing is a full, true and correct copy of Ordinance No. 2019-14 of said Village; the same appears of record in the journal and ordinance book of

said Village; that said Ordinance was duly passed by the Board of Trustees of said Village on the 14th day of October, 2019; that said Ordinance was signed and approved by the Chairperson of said Village Board on the 14th day of October, 2019; and there being no newspaper published in said Village, three (3) copies of said Ordinance were duly posted by me on the 15th day of October, 2019, one in each of three (3) public places in said Village as follows:

Village Office, Giltner, Nebraska

U.S. Post Office, Giltner, Nebraska

Giltner Public Library, Giltner, Nebraska

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of said Village this 15th day of October, 2019.

Joan M. Eastman

Joan M. Eastman, Village Clerk

(SEAL) VILLAGE OF GILTNER CORPORATE SEAL HAMILTON COUNTY NEBRASKA

ORDINANCE NO. 151.01.1

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

An ordinance for the Village of Giltner, Nebraska, to amend the Village of Giltner Code by adding a new section to designate a Wellhead Protection Area.

Section 1. Definitions. Wellhead Protection Area means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or well field.

Section 2. The Village of Giltner designates a Wellhead Protection Area for the purpose of protecting the public water supply system. This delineation is based upon a map prepared by the Nebraska Department of Environmental Quality presented to the Village of Giltner in May 2004.

The legal description for the Wellhead Area is the West 1/2 of Section 05, all of Section 06 and the North 1/2 of the North 1/2 of Section 07 and the North 1/2 of the Northwest Quarter of Section 08, Township 09 North, Range 07 West of the 6th PM in Hamilton County, Nebraska, all of Section 01 and the East 1/2 of the Northeast Quarter of Section 02, Township 09 North, Range 08 West of the 6th PM in Hamilton County, Nebraska, described as follows:

Commencing at a point that is the center line of Road 6 (approximately 1/2 mile East of the Southeast corner of town) that is the Northeast corner of the Northwest Quarter of Section 08, Township 09 North, Range 07 West of the 6th PM in Hamilton County; thence due South an approximate distance of 1320 feet to the Southeast corner of the North one half of the Northwest Quarter of said section; thence due West approximately 7920 feet to the center point of Road G (also being the Southwest corner of the North one half of the Northwest Quarter of Section 07); thence due North (also being the center line of Road G) approximately 1320 feet to the center point of Road 6 and Road G (also being the Northwest corner of the Northwest Quarter in Section 07); thence due West approximately 5280 feet along the center line of Road 6 to the center point of Road 6 and Road F (also known as Southwest corner of the Southwest quarter of Section 01,Township 09 North, Range 08 West of the 6th PM in Hamilton County); thence due North approximately 2640 feet to the Southeast corner of the Northeast Quarter of Section 02, Township 09 North, Range 08 West of the 6th PM in Hamilton County; thence continuing due West approximately 1320 feet to the southwest corner of the East one half of the Northeast Quarter of Section 02; thence due North approximately 2640 feet to the Northwest corner of the East one Half of the Northeast Quarter of Section 02 (also being the center line of Road 7); thence due East

approximately 14520 feet to the Northeast corner of the Northwest quarter of Section 05, Township 09 North, Range 07 West of the 6th PM in Hamilton County (also the center line of Road 7). Continuing on due South approximately 5280 feet to the point that is the Northeast corner of the Northwest Quarter of Section 08, Township 09N, Range 07 West of the 6th PM of Hamilton County. This point also being the point of beginning and containing all the lands within these boundaries of this Wellhead Protection Area.

Section 3. Any other ordinance or section passed and approved prior to the passage, approval and posting of this ordinance and in conflict herewith, is hereby repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and posting as required by law.

PASSED AND APPROVED THIS 13th DAY OF December, 2004.

Randy Findley
Chairman

Charlynn Kral Krcilek
Clerk/Treasurer

(seal)

ORDINANCE NO. 151.01.2

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

AN ORDINANCE FOR THE VILLAGE OF GILTNER, NEBRASKA, TO AMEND CHAPTER 151.01, COMPREHENSIVE PLAN, ARTICLE 3 OF THE VILLAGE OF GILTNER CODE, BY ADDING A NEW SECTION TO DESIGNATE A WELLHEAD PROTECTION PLAN.

Section 1. Definitions. Wellhead Protection Area means the surface and subsurface area surrounding a public water supply well or wellfield, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

Section 2. The Village Board designates a Wellhead Protection Plan for the purpose of protecting the public water supply system. The boundaries of the Wellhead Protection Area were adopted by Ordinance #151.01.1 on December 13, 2004 based on the Wellhead Protection Area map drawn by the Nebraska Department of Environmental Quality in September 2004.

Section 3. Any other ordinance or section passed and approved prior to the passage, approval, and posting of this ordinance and in conflict herewith, is hereby repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and posting as required by law.

PASSED AND APPROVED THIS 13th DAY OF December, 2004

Randy Findley
Chairman

Charlynn Kral Krcilek
Clerk/Treasurer

(seal)

ORDINANCE NO: 7-707

BE IT ORDAINED BY THE CHAIRPERSON AND BOARD OF TRUSTEES OF THE VILLAGE OF GILTNER, NEBRASKA:

Section 1. Section 7-707 of the Municipal Code of Giltner, Nebraska, is amended to read as follows:

AMMENDED MINIMUM YARD REQUIREMENTS.

There shall be a front yard of not less than a depth of **twenty five (25)** feet from the lot line or in line with existing principal structures in the same block. On corner lots principal structures shall be **twenty five (25)** feet from lot line frontings on streets or in line with existing principal structures in the same block. There shall be a rear yard of not less than a depth of **zero (0)** feet, **from rear of property line if not covering up utilities.** Each side yard shall not be less than seven (7) feet.

Section 2. Any other ordinance or section passed and approved prior to passages, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this 12th day of March, 2012.

VILLAGE OF GILTNER COUNTY OF HAMILTON SEAL

(SEAL)

John Easton

Chairperson

Joan Eastman

Clerk

ORDINANCE NO: 7-707

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Section 2. Any other ordinance or section passed and approved prior to passages, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this 12th day of March, 2012.

VILLAGE OF GILTNER INCORPORATED SEAL HAMILTON

(SEAL)

John Eastman

Chairperson

Joan Eastman

Clerk

§ 151.04 FENCES, WALLS AND HEDGES.

Any person desiring to erect a fence shall file with the Municipal Clerk an application for a building permit. Fences shall not be erected to a greater height than eight feet above the ground. Fences erected on the lot line shall be equally appealing to the eye on both sides, or appealing side shall be erected toward the neighbor's side. Refer to Section 1501 of the Hamilton County Comprehensive Plan for visibility requirements at intersections. The use of barbed wire is prohibited.
(Am. Ord., passed 10-14-02)

Ordinance To Join The National Flood Insurance Program
Ordinance Number: 151.05

WHEREAS, certain areas of the Village of **Giltner, Nebraska**, are subject to periodic flooding, causing serious damages to property within these areas: and,

WHEREAS, the relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of this Village Board to require the recognition and evaluation of flood hazards in all official actions relating to development in the flood plain areas having special flood hazards; and

WHEREAS, this body has the legal authority to adopt flood plain management control measures to reduce future flood losses pursuant to Nebraska State Statute Chapter 13, Article 10, Sections 31-1001 to 31-1022, R.R.S. 1942.

NOW, THEREFORE, BE IT RESOLVED, that this Village Board hereby:

1. Assures the Federal Insurance Administration that it will enact as necessary, and maintain in force for those areas having flood hazards, adequate flood plain management and control measures with effective enforcement provisions consistent with the Criteria set forth in Section 60.3 of the National Flood Insurance Program Regulations; and

2. Vests the Village Clerk with the responsibility, authority, and means to:

   A: Delineate or assist the Administrator, at his request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites

   B: Provide such information as the Administrator may request concerning present uses and occupancy of the flood plain.

   C: Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain areas, and cooperate with neighboring communities with respect to management of adjoining flood plain areas in order to prevent aggravation of existing hazards.

   D: When received with the Administrator, complete and submit those reports which advise the Administrator on the progress made within the community in the development and implementation of flood plain management measures.

   E: Upon occurrence, notify the Administrator in writing whenever the boundaries of the Village have been modified by annexation or loss of

authority to adopt and enforce flood plain management regulations for a particular area. Included in such notification will be a map of the Village, suitable for reproduction, which clearly delineates the new or deleted areas.

3. Appoints Village Clerk to maintain for public inspection and to furnish upon request a record of elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures located in the special flood hazard areas. If the lowest floor is below grade on one or more sides, the elevation of the floor immediately above must also be recorded.

4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

ADOPTED AND PASSED by the Village Board of the Village of

Giltner this the **13th** day of **January**, 20**20**.

Michaela A Gonadeu
Board Chairperson

Joan M. Eastman
Attest: Village Clerk

Seal of Community:

VILLAGE OF GILTNER CORPORATE SEAL HAMILTON COUNTY NEBRASKA

ORDINANCE NO. 151.06

Floodplain Management

60.3(b)

AN ORDINANCE INTRODUCED BY THE GOVERNING BODY CREATING FLOODPLAIN DISTRICTS DEFINING THE SAME AND SETTING FORTH REGULATIONS THEREOF.

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

1.1 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, general welfare, and property of the people of the state. The Legislature, in *Nebraska Revised Statutes* Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the flood prone area. Therefore, the Village Board of Trustees of Giltner, Nebraska ordains as follows:

1.2 FINDINGS OF FACT

A. Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Giltner, Nebraska are subject to inundation that 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.

B. 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 as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.2 by applying the provisions of this ordinance to:

A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.

C. Reduce financial burdens from flood damage borne by the community, its governmental units, is residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.

1.4 ADHERENCE TO REGULATIONS

The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

SECTION 2.0 GENERAL PROVISIONS

2.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdictions of Giltner identified on the Flood Insurance Rate Map (FIRM) panels 31081C0275D, dated August 1, 2019 as Zone A and within the Zoning District established in Section 3.0 of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the Village Board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 4.0 and 5.0.

2.2 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the effective Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Giltner Board of Zoning Adjustment 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 their case to the Giltner Board of Zoning Adjustment and to submit their own technical evidence, if so desired.

2.3 COMPLIANCE

Within identified floodplains of this Village, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

2.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency

only.

2.5 INTERPRETATION

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

2.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur, or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance 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 ordinance shall not create liability on the part of Giltner or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

2.7 SEVERABILITY

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

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district, as identified in the Flood Insurance Study dated August 1, 2019 and on accompanying FIRM panels as established in Section 2.1. The floodplain overlay district shall correspond to flood zone A. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

SECTION 4.0 FLOODPLAIN MANAGEMENT ADMINISTRATION

4.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Zoning Administrator of Hamilton County, NE is hereby designated as the village's local floodplain administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. If the local floodplain administrator position is unfilled, the Hamilton County Administrative Manager shall assume the duties and responsibilities herein.

4.2 PERMITS REQUIRED

A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

4.3 DUTIES OF THE FLOODPLAIN ADMINISTRATOR

A. Duties of the floodplain administrator shall include, but not be limited to the following:

i. Review, approve, or deny all applications for floodplain development permits.

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

iii. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.

iv. 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.

v. Coordinate with the Nebraska Department of Natural Resources to obtain base flood elevation information when applicable and required.

vi. 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.

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

viii. 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 the floodplain.

ix. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.

x. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.

xi. Ensure comprehensive development plan as amended is consistent with this ordinance.

xii. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

4.4 APPLICATION FOR PERMIT AND DEMONSTRATION OF COMPLIANCE

A. 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:

i. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.

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

iii. Indicate the use or occupancy for which the proposed development is intended.

iv. Be accompanied by plans and specifications for proposed construction.

v. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.

B. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:

i. All such proposals are consistent with the need to minimize flood damage;

ii. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;

iii. Structures will be anchored to prevent flotation, collapse, or lateral movement;

iv. Construction materials are flood resistant;

v. Appropriate practices to minimize flood damage have been utilized; and

vi. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.

C. For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.

D. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.

E. Any other such information as reasonably may be required by the floodplain administrator shall be provided.

4.5 FLOOD DATA REQUIRED

A. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.

B. Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain 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 in the Flood Insurance Study or on base flood elevation determinations.

4.6 VARIANCES AND APPEALS

Variance and Appeals Procedures

A. The Board of Adjustment, as established by the Village of Giltner, shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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 floodplain administrator in the enforcement or administration of this ordinance.

C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in *Nebraska Revised Statutes* Section 19-192.

D. In evaluating such appeals and requests, the Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

i. The danger to life and property due to flooding or erosion damage;
ii. The danger that materials may be swept onto other lands to the injury of others;
iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
iv. The importance of the services provided by the proposed facility to the community;
v. The necessity of the facility to have a waterfront location, where applicable;
vi. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
vii. The compatibility of the proposed use with existing and anticipated development;
viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
x. 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,
xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

Conditions for Variances

A. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.

B. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.

C. Variances shall only be issued based upon a determination that the granting of a variance will not result in 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.

D. 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 E-I below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

E. 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 an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Variances shall only be issued upon a determination that the variance in the minimum necessary, considering the flood hazard, to afford relief.

G. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

H. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

4.7 ENFORCEMENT

A. Violations

Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. 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.

B. Notices

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

i. Be in writing;

ii. Include an explanation of the alleged violation;

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

iv. Be served upon the property owner or their agent as the case may require; and

v. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.

C. Penalties

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

ii. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.

iii. Nothing herein contained shall prevent Giltner or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 5.0 STANDARDS FOR FLOODPLAIN DEVELOPMENT

5.1 GENERAL PROVISIONS

A. Alteration or Relocation of a Watercourse

i. A watercourse or drainageway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainageway to the detriment of upstream, downstream, or adjacent locations.

ii. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

B. Encroachments

i. When proposing to permit any of the following encroachments, the standards in Section 5.1 (B) (ii) shall apply:

a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or

b. Alteration or relocation of a stream; then

ii. The applicant shall:

a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and

b. Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property owners.

5.2 ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.

B. Nonresidential Structures

i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:

a. The structure is watertight with walls substantially impermeable to the passage of water and

b. The structure has structural components with 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. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

C. Space Below Lowest Floor

i. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.

ii. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation 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. A minimum or two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,

b. The bottom of all openings shall not be higher than one (1) foot above grade, and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

D. Appurtenant Structures

i. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:

a. The structure shall not be used for human habitation.

b. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.

c. The floor area shall not exceed 400 square feet.

d. The structure shall have a low damage potential.

e. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.

f. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
    1. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
    2. The bottom of all openings shall not be higher than one (1) foot above grade, and
    3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

g. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or floodproofed to one (1) foot above base flood elevation.

h. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

i. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

E. Manufactured Homes

i. Require that all manufactured homes to be placed or substantially improved within floodplains 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 as incurred substantial damage as the result of a flood,

    Be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.

ii. 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 that are not subject to the provisions of Section 5.2 (D) (b) be elevated so that either;
    a. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
    b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the

provisions of Section 5.2 (F) (iv).

iii. New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section 5.3 (H).

iv. All manufactured homes shall be anchored to resist flotation, 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 ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

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

b. Frame ties be provided at each corner of the manufactured 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. Any additions to the manufactured home be similarly anchored.

F. Existing Structures

i. The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of 5.2 (G) (ii-iii) shall apply.

ii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.

iii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

5.3 DESIGN AND CONSTRUCTION STANDARDS

A. Anchoring

i. All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Building Materials and Utilities

i. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.

ii. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that

are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Drainage

i. Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

D. Water Supply and Sanitary Sewer Systems

i. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.

ii. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.

iii. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.

E. Other Utilities

i. All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

F. Storage of Materials

i. 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.

ii. The 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.

G. Recreational Vehicles

i. Recreational vehicles to be placed on sites within the floodplain shall:

a. Be on site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or

c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

H. Subdivisions

i. Subdivision proposals and other proposed new development, including manufactured 3

a. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is

less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

SECTION 6.0 NONCONFORMING USE

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

   i. If such use is discontinued for **12** consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the floodplain administer in writing of instances of nonconforming uses where utility services have been discontinued for a period of **12** months.

   ii. 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 ordinance. 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 7.0 AMENDMENTS

A. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be take until after a public hearing in relation thereto, at which citizens and parties in interest 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 Giltner. At least ten (10) days shall elapse between the date of this publication and the public hearing.

B. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

SECTION 8.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application:

Appurtenant Structure shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Also shall be known

as "accessory structure."

Area of Shallow Flooding means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood means the flood having one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation means the elevation to which floodwaters are expected to rise during the base flood.

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

Building means "structure." See definition for "structure."

Development means any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.

Drainway means "watercourse." See definition for "watercourse."

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.

Flood Fringe is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.

Floodproofing means any combination of structural and nonstructural additions, changes, or

adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

Floodway or Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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 or modified so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction for floodplain management purposes, "new construction" 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.

Obstruction means any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (*Nebraska Revised Statutes* 46-1601 to 46-1670 as amended).

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.

Post-FIRM Structure means a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated December 2, 1992, whichever is later.

Pre-FIRM Structure means a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated December 2, 1992, whichever is later.

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

Recreational Vehicle means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (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.

Regulatory Flood Elevation means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.

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

Start of Construction means the date the floodplain development 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. "Start of construction" also 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. 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.

Subdivision means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance 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. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

ADOPTED AND APPROVED by the Governing Body of the Village of Giltner, Nebraska.

This 13th day of January, 2020.

Michael A. Gorachi
Board Chairperson

Joan M. Eastman
Village Clerk

(Village Seal)