

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
December 20, 2010

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the Council Chambers at City Hall, 1409 Central Avenue, on December 20, 2010. Notice of the meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes.

Mayor Hobbie called the meeting to order at 6:00 p.m. The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Mayor Jack Hobbie led in the Pledge of Allegiance. Upon roll call the following answered present: Brett Gay, Jeff Crunk, Dean Handy, Mark Mercer and Mayor Hobbie. The following City Officials were present: City Administrator Pat Haverty, City Clerk Arnold M. Ehlers, City Attorney William Davis, Police Chief David Lacy and Public Properties Director/Zoning Director Dan Giittinger.

Commissioner Handy moved to approve the minutes of the November 15, 2010, City Council Regular Meeting seconded by Commissioner Crunk. Upon roll call the following voted YES: Crunk, Handy, Gay, and Mayor Hobbie. Voting NO: None. Abstain: Mercer. Motion adopted.

Commissioner Crunk moved to approve the minutes of the November 24, 2010, City Council Regular Meeting seconded by Commissioner Mercer. Upon roll call the following voted YES: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Abstain: Gay. Motion adopted.

Commissioner Mercer moved to approve the minutes of the December 6, 2010, City Council Regular Meeting seconded by Commissioner Gay. Upon roll call the following voted YES: Crunk, Gay, and Mercer. Voting NO: None. Abstain: Handy and Mayor Hobbie. Motion adopted.

Commissioner Mercer moved to pay all claims except Claim # 7250Z. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to pay Claim #7250Z, upon roll call the following voted YES: Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Abstain: Mercer. Motion carried.

Commissioner Handy moved to approve all Electrician's Work Permit Applications as presented. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Commissioner Handy moved to approve all Plumber's License Applications as presented. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Mayor Hobbie moved to appoint Mike DeHart to the Nebraska City Housing Authority for a five year term. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the proposed redevelopment plan by Fareway Stores, Inc on the property formally occupied by Pamida at 1738 South 11th Street. The Community Development Agency held a public hearing prior to the City Council meeting and voted to recommend that the City Council approve the plan. Pat Haverty again explained the proposed project plan. Bill Thurman publicly stated support for the redevelopment plan. No one else spoke in support or opposition to the plan. Commissioner Mercer moved to close the Public Hearing. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion carried.

Mayor Hobbie opened the Public Hearing on the use of Downtown Revitalization Loan Funds for Dan Kelly and Kimberly Crossfield to install energy efficient windows at 609 Central Avenue. Stephanie Shrader of NCAEDC explained the proposed project and that the loan committee does recommend approval. No one else spoke in support or opposition to the loan request. Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Pat Haverty reported that the annual chamber banquet will be Saturday January 29, 2011, notify Arnold if you plan to attend. Pat demonstrated to the Mayor, Commissioners and all present how to access documents on the City's webpage. The City Treasurer reported a beginning balance on November 1, 2010 of \$2,462,114.20; revenues of \$473,695.87; expenses of \$560,140.53 leaving a balance on hand November 30, 2010 of \$2,275,669.54.

Ron Fritschle representing World of the Aging (WOTA) updated the Council on the increased participation in the meals program and space constraints. In a letter to the Council it was stated "we have seen an increase in conflicts between WOTA and Riverview." Referencing the fact that as each entity tries to provide additional activities for clients and space usage has become a problem. Mayor Hobbie accepted the reports and asked that all written reports be placed on file.

Mayor Hobbie introduced Ordinance 2817-10 for its third and final reading. Ordinance 2817-10 was read by title only and thereafter Mayor Hobbie moved for final passage of the Ordinance, which motion was seconded by Commissioner Mercer. Mayor Hobbie then stated the question: "Shall Ordinance 2817-10 be passed and adopted?" Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, Mayor Hobbie declared the ordinance adopted. A true, correct and complete copy of said ordinance is as follows:

ORDINANCE NO. 2817-10

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF AND ANNEX TO THE CITY OF NEBRASKA CITY, NEBRASKA, CERTAIN CONTIGUOUS AND ADJACENT LANDS OUTSIDE OF THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA, AS DESCRIBED IN SECTION 2 HEREOF, AND TO PROVIDE FOR SERVICE BENEFITS THERETO, AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, Nebraska City MHP, LLC, the owner of the property described in Section 2 hereof, has requested that said tract of land be annexed into the City of Nebraska City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA:

SECTION 1. It is hereby found and determined by the Mayor and City Commissioners of the City of Nebraska City, Nebraska:

- a) The tract of land located outside of Nebraska City, Otoe County, Nebraska, as more particularly described herein, is urban and suburban in character and is contiguous and adjacent to the corporate limits of the City of Nebraska City, Nebraska;
- b) Police, fire and snow removal benefits will be immediately available thereto, and other City services are or will be available as provide by law;
- c) Within the area considered for annexation, the users of the City's utility services will have the benefits or rates applicable to users of such service within the City;
- d) There is a unity of interest in the use of such tracts with the use of lots and tracts in such City, and the community of convenience and welfare and the interest of such City will be enhanced through incorporating such lot within the limits of such City.

SECTION 2. That the boundaries of the City of Nebraska City, Nebraska, be and hereby are extended to include within the corporate limits of such City the adjacent and contiguous lands located outside of the City of Nebraska City, Otoe County, Nebraska, and known as: Lot A-2 Administrative Replat of Lot A, R & D Shallenberger Subdivision, which is more particularly described as follows:

A 0.72 m/l acre tract of land located in the N.E. 1/4 of the N.W. 1/4 of Section 17, T.8N. R.14E of the 6th P.M. and also being a part of Lot A, R & D Shallenberger Subdivision to Nebraska City, Otoe County, Nebraska, and being more particularly described as follows:

Commencing at the North 1/4 Corner of said Section 17, said point being the True Point of Beginning; thence westerly along the North line of the N.E. 1/4 of the N.W. 1/4 S89°22'37"W 331.71 feet to a point on the Easterly right-of-way line of Industrial Road; thence southeasterly along said Easterly right-of-way line S41°37'23"E 189.28 feet to a point on the North right-of-way line of the Omaha Public Power District Railroad; thence northeasterly along said North right-of-way line on a radius of 2914.79 feet, whose long chord bears N72°06'03"E 219.10 feet to the East line of the said N.E. 1/4 of the N.W. 1/4 of Section 17; thence northerly along the said East line N01°52'12"W 77.8 feet to the North 1/4 Corner of said Section 17, said point being the True Point of Beginning.

SECTION 3. That a certified copy of this ordinance, together with a plat of such lands, shall be filed of record in the office of the Register of Deeds of Otoe County, Nebraska.

SECTION 4. That the land described in Section 2 hereof is hereby annexed to the City of Nebraska City, Otoe County, Nebraska.

SECTION 5. That upon the taking effect of this ordinance, the police, fire and snow removal services of such City shall be furnished to the lands hereinbefore annexed, and other City services are or will be available as provided by law and the plan prepared in connection with this annexation; and the City rates for utility services furnished by the Nebraska City Utilities shall apply to such lots and tracts.

SECTION 6. This ordinance shall take effect and be in full force from and after fifteen days after its passage, approval, and publication as required by law, in its entirety or in pamphlet form, as the case may be, the authority for this annexation being Nebraska Revised Statutes Section 16-117 et seq. Reissue of 1997.

SECTION 7. The provisions of this ordinance are separable, and the invalidity of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

PASSED and APPROVED this 15th day of November, 2010.

Jack Hobbie, Mayor

ATTEST:

Arnold M. Ehlers, City Clerk Treasurer

Mayor Hobbie introduced Resolution 2500-10 approving a redevelopment plan for Fareway Stores, Inc. Commissioner Gay moved to approve Resolution 2500-10. Upon roll call the following voted YES: Crunk, Handy, Mercer, Gay, and Mayor Hobbie. Voting NO: None. Motion passed. A true, correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2500-10

A RESOLUTION OF THE CITY OF NEBRASKA CITY, NEBRASKA, APPROVING A REDEVELOPMENT PLAN ENTITLED "REDEVELOPMENT PLAN FOR NEBRASKA CITY MIDDLE SCHOOL BUILDING PROPERTY (RAVEN'S NEST EAST, INC. – REDEVELOPER)."

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF NEBRASKA CITY, NEBRASKA, as follows:

Section 1. The Mayor and Council of the City of Nebraska City, Nebraska, hereby find and determine that the Mayor and Council of the City of Nebraska City, Nebraska, (the "City") have previously adopted Resolution No. 2903-06 declaring an area of the City, including the area described on Exhibit A attached hereto and incorporated herein, as blighted and substandard in accordance with the Nebraska Community Development Law (Sections 18-2101 to 18-2144, R.R.S. Neb. 2007, as amended).

Section 2. That the Redeveloper's Redevelopment Plan for Fareway Stores, Inc. Project (the "Plan") has been submitted to the Planning Commission of the City of Nebraska City, Nebraska (the "Planning Commission"), for review and recommendations and that the Planning Commission has approved the Plan.

Section 3. That the Community Development Agency considered whether the proposed land uses and building requirements in the Project Area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of insanitary or unsafe dwelling accommodations, or conditions of blight.

Section 4. That a cost-benefit analysis has been conducted as set forth in the Plan and has been approved by the Agency as part of the Plan.

Section 5. That the Community Development Agency has recommended that the Mayor and City Council adopt the Plan. In connection with such recommendation, the Agency reported to the Mayor and City Council that the proposed method and estimated cost of the acquisition and preparation for redevelopment of the Project Area and the estimated proceeds or revenue from the Project Area's disposal to redevelopers, if any; and a statement of the proposed method of financing the redevelopment project is set forth in the Plan in the overview and in paragraph 11 thereof. Further, it has been stated to the Mayor and City Council that there will be no families displaced from the Project Area.

Section 6. That a public hearing was held, after notice of such public hearing was provided as required in Section 18-2115 R.R.S. Neb. 2007, as amended, whereby all persons desiring to be heard as to whether the Plan should be approved have been heard.

Section 7. Based upon the recommendation of the Community Development Agency and analysis and review of the Plan, the Mayor and Council hereby find (1) that the Plan is feasible and in conformity with the general plan for the development of the City as a whole and the Plan is in conformity with the legislative declarations and determinations set forth in the Community Development Law and (2) that (a) the redevelopment project in the Plan (the "Project") would not be economically feasible without the use of tax-increment financing, (b) the Project would not occur in the community redevelopment area without the use of tax-increment financing, and (c) the costs and benefits of the Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and have been found to be in the long-term best interest of the community impacted by the Project.

Section 8. The Mayor and City Council hereby approve the Plan.

PASSED AND APPROVED this 20th day of December, 2010.

Jack Hobbie, Mayor

(SEAL)

Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Resolution 2499-10 approving loan funds for Dan Kelly and Kimberly Crossfield. Commissioner Handy moved to approve Resolution 2499-10. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion adopted. A true, correct and complete copy of said resolution is as follows:

**RESOLUTION NO. 2499-10
TO USE PROGRAM INCOME FROM A
COMMUNITY DEVELOPMENT BLOCK GRANT**

WHEREAS, the **Nebraska City Downtown Revitalization Loan Fund** has received Community Development Block Grants for Economic Development and,

WHEREAS, Program funds for Economic Development are to be used for making loans to private businesses in accordance with the **Nebraska City Downtown Revitalization Loan Fund Plan** program and governing regulations, and,

WHEREAS, a Reuse Plan has previously been adopted, and,

WHEREAS, the Application Review Board has recommended a project presented through application by an eligible business for a loan up to \$20,000 under specified conditions specifically for use in the refurbishing and upgrading of the building frontage, façade and repairs to bring the second level to comply with existing codes and,

WHEREAS, the City Council of Nebraska City has conducted a public hearing upon the proposed use of Program Income funds,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Nebraska City, that the obligation of funds is approved according to the recommendations of the Application Review Board and the Mayor is hereby authorized to execute all necessary and appropriate documents on behalf of the City and the **Nebraska City Downtown Revitalization Loan Fund** to complete the loan project for **Dan Kelly and Kimberly Crossfield** owners of the building, contingent upon approval of the City Attorney as to form. Passed and adopted on the **20th Day of December 2010** by the City Council of Nebraska City, Nebraska.

Jack Hobbie, Mayor

ATTEST: _____
Arnold M. Ehlers, City Clerk

Leroy Frana provided information on a Water Department project to upgrade the water main at the intersection of 11th Street at 4th Corso. The old main will be replaced with a new 8” main with minimal disruption to traffic and area businesses. The total cost of the project is \$34,673.24 and work would be completed prior to 4th Corso Mill & Overlay in 2011. Commissioner Gay moved to approve the Board of Public Works; Work Order #320 for the replacement of a 6” water main with an 8” water main in the amount of \$34,673.24. Upon roll call the following voted YES: Crunk, Handy, Mercer, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced Ordinance 2822-10 entitled, AN ORDINANCE TO AMEND SECTION 419 OF THE ZONING REGULATIONS OF THE CITY OF NEBRASKA CITY, NEBRASKA, BY ADOPTING THE NEW FLOOD HAZARD BOUNDARY MAPS/FLOOD HAZARD RATE MAPS, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND SPECIFICALLY REFERRED TO HEREIN; TO REPEAL THE ORIGINAL SECTION 419, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; AND TO DECLARE AN EFFECTIVE DATE, and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: “Shall Ordinance No. 2822-10 be passed and adopted?” Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2822-10
Nebraska
Zoning Overlay District
Floodplain Management Ordinance

AN ORDINANCE TO AMEND SECTION 419 OF THE ZONING REGULATIONS OF THE CITY OF NEBRASKA CITY, NEBRASKA, BY ADOPTING THE NEW FLOOD HAZARD BOUNDARY MAPS/FLOOD HAZARD RATE MAPS, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND SPECIFICALLY REFERRED TO HEREIN; TO REPEAL THE ORIGINAL SECTION 419, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO DECLARE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA

SECTION 1. That Section 419 of the Zoning Regulations of the City of Nebraska City is hereby amended to read as follows:

419.01 AUTHORITY

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the city with zoning jurisdiction over the flood-prone area. Therefore, the City Council of Nebraska City, Nebraska, ordains as follows:

419.02 FINDINGS OF FACT

1. Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Nebraska City, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

2. General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

3. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- A. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated February 18, 2011 as amended.
- B. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- C. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- D. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- E. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

419.03 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 419.02(2) by applying the provisions of this ordinance to:

- A. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- C. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

419.04 GENERAL PROVISIONS

419.04.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Nebraska City identified on the Flood Insurance Rate Map (FIRM) dated February 18, 2011 as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 419.06 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 419.07, 419.08, and 419.09.

419.04.2 THE ENFORCEMENT OFFICER

The Zoning Administrator of the city is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

419.04.3 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Nebraska City, Nebraska Board of Adjustment and to submit his own technical evidence, if he so desires.

419.04.4 COMPLIANCE

Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

419.04.5 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance 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.

419.04.6 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.

419.04.7 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 on rare occasions or the flood height may be increased by man-made 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 the City of Nebraska City 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.

419.04.8 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.

419.04.9 APPEAL

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Nebraska City, Nebraska Board of Adjustment.

419.05 DEVELOPMENT PERMIT

419.05.1 PERMIT REQUIRED

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 419.15.

419.05.2 ADMINISTRATION

- A. The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
- B. Duties of the Zoning Administrator shall include, but not be limited to:
 - (1) 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.
 - (2) Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
 - (4) Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - (6) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
 - (7) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
 - (8) When floodproofing is utilized for a particular structure the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

419.05.3 APPLICATION FOR PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- A. Identify and describe the development to be covered by the floodplain development permit.
- B. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
- C. Indicate the use or occupancy for which the proposed development is intended.
- D. Be accompanied by plans and specifications for proposed construction.
- E. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- F. Give such other information as reasonably may be required by the Zoning Administrator.

419.06 ESTABLISHMENT OF ZONING DISTRICTS

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

419.07 STANDARDS FOR FLOODPLAIN DEVELOPMENT

1. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of SECTION 6.0. 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.
3. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
5. Storage of Material and Equipment
 - a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

419.08 FLOOD FRINGE OVERLAY DISTRICT - (Including AO and AH Zones)

419.08.1 PERMITTED USES

Any use permitted in Section 419.09 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 419.07 are met.

419.08.2 STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT

- A. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation.
- B. Require new construction or substantial improvements of non-residential structures to 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, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect

shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in Section 419.05.2, B(7).

- C. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- E. Manufactured Homes
 - a. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - (1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (4) Any additions to the manufactured home be similarly anchored.
 - b. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
 - (1) Outside of a manufactured home park or subdivision,
 - (2) In a new manufactured home park or subdivision,
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,
be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.25A.
 - c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 419.08.2,E(b) be elevated so that either:
 - (1) The lowest floor of the manufactured home is at or above **one (1) foot** above the base flood elevation, or
 - (2) 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 419.08.2,E(a).
- F. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
- G. Located within the areas of special flood hazard established in Section 419.04.1 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
 - a.. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
 - b.. All new construction and substantial improvements of non-residential structures shall:
 - (1) Have the lowest floor elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls

substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 419.05.2.

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

419.09 FLOODWAY OVERLAY DISTRICT

419.09.1 PERMITTED USES

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:

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

419.09.2 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 419.07 and 419.08. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 5.6(d) of this ordinance, in meeting the standards of this section.

419.10 VARIANCE PROCEDURES

- 1 The Nebraska City, Nebraska Board of Adjustment as established by the City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 2 The Nebraska City, Nebraska 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 Zoning Administrator in the enforcement or administration of this ordinance.
- 3 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 Section 19-912, R.R.S. 1943 as amended.
- 4 In passing upon such applications, the Nebraska City, Nebraska Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 1 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,
 - 2 The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

419.11 CONDITIONS FOR VARIANCES

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (8.52-8.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- F. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

419.12 NONCONFORMING USE

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

- A. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

419.12.2 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 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

419.13 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$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.

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

419.14 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Nebraska City. At least 10 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

419.15 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application, when the following definitions are inconsistent with the definitions set forth in Section 303, the following definitions shall govern with regard to administration of these flood hazard area regulations:

1. "Appeal" means a request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or a request for a variance.

2. "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.

3. "Base Flood" means the flood having one percent chance of being equalled or exceeded in any given year.

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

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

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

7. "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.

8. 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).

9. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The usual and rapid accumulation of runoff of surface waters from any source.

10. "Flood Fringe" is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

11. "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

12. "Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

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

14. "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.

15. "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.

16. "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

17. "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.

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

19. "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".

20. "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.

21. "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.

22. "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.

23. "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.

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

25. "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.

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

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

28. "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.

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

30. "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."

31. "Variances" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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

SECTION 2. That the original Section 419 and all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. That this ordinance shall take effect and be in force from and after its passage, approval, and publication, as provided by law.

ADOPTED AND APPROVED by the Governing Body of Nebraska City, Nebraska.

This 20th day of December, 2010.

Jack Hobbie, Mayor

(Seal)

ATTEST: _____
Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Ordinance 2823-10 entitled, AN ORDINANCE TO AMEND SECTION 8-19, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE BICYCLE REGISTRATION FEE TO \$2.00; TO REPEAL THE ORIGINAL SECTION 8-19 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE, and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2823-10 be passed and adopted?" Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2823-10

AN ORDINANCE TO AMEND SECTION 8-19, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE BICYCLE REGISTRATION FEE TO \$2.00; TO REPEAL THE ORIGINAL SECTION 8-19 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

Whereas, in keeping up with a program to update the ordinances of the City of Nebraska City, it has been recommended by the staff that bicycle registration fees be increased to the sum of \$2.00.

Now Therefore, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 8-19 of the Code of Nebraska City, Nebraska, be amended to read as follows:

"Sec. 8-19. Fee.

Before the issuance of a registration certificate and number plat, under the provisions of this article, the applicant therefore shall pay a fee of \$2.00. All fees collected under this article shall be deposited with the City Clerk-Treasurer for the benefit of the Police Fund.”

Section 2. That the original section 8-19 of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 3. That this Ordinance shall take effect and be in full force from and after its passage, approval, and publication, as provided by law.

PASSED and APPROVED, this 20th day of December, 2010.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance 2824-10 entitled, AN ORDINANCE TO AMEND SECTION 9-73, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE INSTALLATION INSPECTION FEE PROVIDED IN SAID ORDINANCE TO THE SUM OF \$25.00; TO REPEAL THE ORIGINAL SECTION 9-73 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE. , and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: “Shall Ordinance No. 2824-10 be passed and adopted?” Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2824-10

AN ORDINANCE TO AMEND SECTION 9-73, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE INSTALLATION INSPECTION FEE PROVIDED IN SAID ORDINANCE TO THE SUM OF \$25.00; TO REPEAL THE ORIGINAL SECTION 9-73 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

Whereas, in keeping up with a program to update the ordinances of the City of Nebraska City, it has been recommended by the staff that the installation inspection fee provided in said ordinance be increased to the sum of \$25.00.

Now Therefore, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 9-73 of the Code of Nebraska City, Nebraska, be amended to read as follows:

“Sec. 9-73. Installation inspection fee.

Each person installing a solid fuel type stove or fireplace in a pre-existing residence shall pay an installation inspection fee of twenty-five dollars (\$25.00). All fees collected under the provisions of this article are hereby declared to be occupation tax money levied for revenue purposes, shall be credited to the general fund of the city, shall be used to defray the costs and expenses of administering this article and thereafter for general fund purposes.”

Section 2. That the original section 9-73 of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 3. That this Ordinance shall take effect and be in full force from and after its passage, approval, and publication, as provided by law.

PASSED and APPROVED, this 20th day of December, 2010.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance 2825-10 entitled, AN ORDINANCE TO AMEND SECTION 33-142, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE SIDEWALK CAFE PERMIT FEE PROVIDED IN SAID ORDINANCE TO

THE SUM OF \$100.00; TO REPEAL THE ORIGINAL SECTION 33-142 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE., and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2825-10 be passed and adopted?" Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2825-10

AN ORDINANCE TO AMEND SECTION 33-142, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE SIDEWALK CAFE PERMIT FEE PROVIDED IN SAID ORDINANCE TO THE SUM OF \$100.00; TO REPEAL THE ORIGINAL SECTION 33-142 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

Whereas, in keeping up with a program to update the ordinances of the City of Nebraska City, it has been recommended by the staff that the permit fee for operating a sidewalk cafe provided in said ordinance be increased to the sum of \$100.00.

Now Therefore, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 33-142 of the Code of Nebraska City, Nebraska, be amended to read as follows:

"Sec. 33-142. Sidewalk cafe permit fee; disposition of funds.

- (a) The city clerk-treasurer shall at the time a person or entity makes application to operate a sidewalk cafe in Nebraska City, charge and collect a fee of one hundred dollars (\$100.00) for such permit.
- (b) All fees collected under the provisions of this section shall be credited to the general fund of the city, to be used to defray the costs and expenses of administering this article and thereafter for general purposes."

Section 2. That the original section 33-142 of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 3. That this Ordinance shall take effect and be in full force from and after its passage, approval, and publication, as provided by law.

PASSED and APPROVED, this 20th day of December, 2010.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance 2826-10 entitled, AN ORDINANCE TO AMEND SECTION 26-23, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO PROVIDE A NEW FEE SCHEDULE FOR PEDDLER PERMITS ; TO REPEAL THE ORIGINAL SECTION 26-23 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO DECLARE AN EFFECTIVE DATE., and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2826-10 be passed and adopted?" Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the

Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2826-10

AN ORDINANCE TO AMEND SECTION 26-23, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO PROVIDE A NEW FEE SCHEDULE FOR PEDDLER PERMITS ; TO REPEAL THE ORIGINAL SECTION 26-23 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO DECLARE AN EFFECTIVE DATE.

Whereas, in keeping up with a program to update the ordinances of the City of Nebraska City, it has been recommended by the staff that peddler permit fees be increased.

Now Therefore, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 26-23 of the Code of Nebraska City, Nebraska, be amended to read as follows:

“Sec. 26-23. Fee.

Before any permit shall be issued under the provisions of this article, the applicant therefore shall pay a fee, based upon the duration he/she desires to engage in business in the city, as follows:

- (a) Per day \$25.00
- (b) Per week \$50.00
- (c) Per year \$200.00

Section 2. That the original section 26-23 of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 3. That this Ordinance shall be effective from and after its adoption, approval, and publication, as provided by law.

PASSED and APPROVED, this 20th day of December, 2010.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Police Chief David Lacy outlined his thoughts on revising the parking regulations for the downtown business district. The proposed plan calls for reducing the number of parking spaces limited to 2 hour parking and allowing 24 hour parking in City parking lots. The outlined changes would make it easier for his department to enforce the parking regulations while at the same time giving the apartment residents in the downtown area more parking alternatives. Mayor Hobbie suggested the possibility of issuing parking passes for City lots like colleges do for students. Chief Lacy asked the Council to think about the suggestions and that he would bring the downtown parking issue up again.

Dan Giittinger addressed the Council concerning a Dodge pickup that the Parks Department no longer uses due to repair costs. The department would like to declare the Dodge surplus and advertise for sale. Commissioner Handy moved to declare the 1989 Dodge pickup surplus and authorized staff to advertise the Dodge for sale. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and mayor Hobbie. Voting NO: None. Motion adopted.

Pat Haverty explained to the Council the need for an actuarial audit of the Police Retirement Account due to State Statute. Milliman Inc was recommended by the plan sponsor. Commissioner Handy moved to approve the agreement with Milliman, Inc in the amount of \$1,800.00 for an actuarial valuation and certification of the Nebraska City Police Retirement Plan. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Alamar	232.92	Unif	Mullenax Auto	320.19	Rep
Alexander Motor	50,000.00	Equip	Nationwide	10,483.41	Inv
Allied Ins	100.00	Bond	Natl Arborists Asso	335.00	Dues
Arbor Day Found	25.00	Dues	NC Public Schools	71.50	Misc
Arbor Mart	3,104.95	Fuel	NC Utilities	6,751.92	Util
Asphalt Material	339.16	Maint	NCEMS Coop	75.00	Dues
Bishop Plumbing	11,587.00	Rep	NE Dept Rev	153.78	Sales
Bob's Welding	17.48	Equip	NE Muni Clerks	35.00	Dues
Cintas	57.70	Contr	O'Flaherty, J	3,659.40	Contr
Data Tech	205.85	Supp	O'Reilly Auto	25.98	Rep
Douglas Tire	543.82	Rep	Orscheln	128.74	Rep
Ehlers, A	491.52	Supp	Otoe Co Clerk	5,240.14	Contr
Emergency Rep	293.94	Rep	Otoe Co Treas	587.22	Misc
Express Supply	938.79	Ammo	Palfleet Truck Eq	16.27	Equip
Fire Protect Srvc	41.25	Maint	Payroll	83,351.27	Payroll

Food Pride	3.35	Supp	Physician Network	93.00	Med
Foremost Equip	536.00	Med	Pine Acres Nursery	329.00	Maint
Giittinger, D	161.50	Mileage	Purchase Power	400.00	Postage
Hamilton, E	589.00	Misc	Reams Sprinkler	288.45	Supp
Haverty, P	350.00	Mileage	RepCo Marketing	35.00	Supp
Heartland Class	108.78	Advert	SEND	662.93	CDBG
HireRight Sol	50.00	Med	Shell	2,115.19	Fuel
Ideal Pure Water	30.00	Contr	St. Mary's Hosp	806.89	Med
Intl Muni Lawyers	480.00	Dues	Stutheit Imp Co	126.92	Rep
KNCY	131.30	Advert	Tom's Radio	420.00	Contr
Konica Business	209.41	Contr	Tri-State Office	198.60	Supp
Landis Engine	16.00	Equip	Van Wall Turf	240.07	Rep
Linweld	499.90	Med	VISA	1,087.00	Sftwre
Martin Marietta	545.09	Maint	Wallen, M	60.10	Mileage
Mead Lumber	133.18	Rep	Watkins	265.54	Rep
Mercer's	762.92	Rep	Wick's Omaha	131.78	Equip
Merrill, B	275.00	Misc	Windstream	1,863.11	Tele
Midwest Machine	48.00	Equip	Wm Yost Trucking	1,134.00	Maint
Midwest Turf	628.03	Rep	Wood Family Fuel	126.22	Fuel
Miller Monroe	670.00	Ins	WPS Medicine	334.39	Misc

Meeting adjourned at 7:05 p.m.

Arnold M. Ehlers, City Clerk – Treasurer