

**AGENDA
CITY COUNCIL MEETING
COUNCIL CHAMBERS – CITY HALL
306 PEARL STREET
July 18, 2023**

1. [Call the Meeting to Order – 5:30 p.m.](#)
2. [Pledge of Allegiance](#)

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the southwest wall of the Council Chambers as well as on the City of Wayne website.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. [Approval of Minutes – July 6, 2023](#)
4. [Approval of Claims](#)
5. [Action on the Wayne Volunteer Fire Department Application for Membership of Logan Miller –Phil Monahan, Fire Chief](#)
6. [Public Hearing: Application for a Community Development Block Grant Program – Land and Water Conservation Funds - \\$600,000 \(Prairie Park Project\) — Riah Deane, Community Planner, Northeast Nebraska Economic Development District](#)

Background: The City of Wayne is requesting \$600,000 in Land and Water Conservation Funds (LWCF) for implementing the third phase of their Prairie Park project, including lake access for kayaks, ADA jetties for fishing access, a bridge, ADA trail access to the lake, and a bathhouse for future campers. Total project costs will be \$1,200,000, with a \$600,000 match from the City. In an effort to improve quality of life for Wayne residents through outdoor recreation, the City has determined outdoor water recreation that is accessible for all residents is a priority. The project is in the Wayne Municipal Area in the southeast corner of the City and repurposes an old lagoon site that is owned by the City.

7. [Resolution 2023-47: On the Development for Outdoor Recreation — Prairie Park Project](#)
8. [Ordinance 2023-14: Amending Wayne Municipal Code Title VII Traffic Code, Prohibitions and Enforcement, Section 78-13 Stop Sign Locations; West of Main Street, South of 7th Street](#)

Background: This ordinance comes about from the request of Mick Kemp at the last meeting to replace the stop sign on the west corner of 5th Street and Schoolview Drive. By putting this stop sign location in the municipal code book, the same will be enforceable.

9. [Ordinance 2023-15: Amending Wayne Municipal Code Title XV Land Usage, Chapter 152 Zoning, Section 152.111 SFP Floodplain District](#)

Background: Our floodplain ordinance was last adopted when the existing maps were still preliminary and referenced as such in the ordinance. During an audit this year with Nebraska Department of Natural Resources it was discovered that the ordinance was never updated to reflect the map being made permanent in 2008. This is an oversight that needs to be corrected to keep us in compliance with the National Flood Insurance Program.

10. [Discuss/Update on the potential negotiations on real property](#)
11. [Budget Work Session](#)
12. [Adjourn](#)

**MINUTES
CITY COUNCIL MEETING
July 6, 2023**

The Wayne City Council met in regular session at City Hall on July 6, 2023, at 5:30 o'clock P.M.

Council President Jill Brodersen called the meeting to order, followed by the Pledge of Allegiance, with the following in attendance: Councilmembers Brent Pick, Terri Buck, Brittany Weber, Clayton Bratcher, Jason Karsky, Matt Eischeid and Jill Brodersen; City Administrator Wes Blecke; City Clerk Betty McGuire; and Attorney Amy Miller. Absent: Mayor Cale Giese and Councilmember Nick Muir.

Notice of the convening meeting was given in advance thereof by publication in the Wayne Herald, Wayne, Nebraska, the designated method of giving notice, as shown by Affidavit of Publication. In addition, notice was given to the Mayor and all members of the City Council, and a copy of their acknowledgement of receipt of notice and agenda is on file with the City Clerk. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the Council convened in open session.

Council President Brodersen advised the public that a copy of the Open Meetings Act was located on the southwest wall of Council Chambers, as well as on the City of Wayne website and was available for public inspection. In addition, she advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Councilmember Eischeid made a motion, which was seconded by Councilmember Buck, to approve the minutes of the meeting of June 20, 2023, and to waive the reading thereof. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: ACES, SE, 1093.66; AMERICAN LIBRARY ASSOC, FE, 236.00; APPEARA, SE, 113.99; ARNIE'S FORD, SE, 426.09; BOMGAARS, SU, 1609.93; CARHART LUMBER COMPANY, SU, 99.74; CARLISLE ROOFING SYSTEMS, FE, 1500.00; CITY EMPLOYEE, RE, 372.54; CITY

EMPLOYEE, RE, 101.09; CITY EMPLOYEE, RE, 330.77; CITY OF WAYNE, RE, 80.93; CJH TECHNOLOGIES, SE, 1000.00; CLIFF, JOSH, RE, 44.13; COLONIAL RESEARCH, SU, 549.87; COUNTRY NURSERY, SU, 80.00; DAS STATE ACCTG-CENTRAL FINANCE, SE, 448.00; DEARBORN LIFE INSURANCE COMPANY, SE, 86.00; DUNNING, CAROL, RE, 96.00; EAKES OFFICE PLUS, SE, 2612.94; ED M. FELD EQUIPMENT, SU, 180.00; FLOOR MAINTENANCE, SU, 258.20; FLUENT, MIKE, RE, 50.00; GALE/CENGAGE LEARNING, SU, 77.32; GERHOLD CONCRETE, SU, 6660.75; GRAINLAND ESTATES, RE, 5448.15; GROSSENBURG IMPLEMENT, SU, 618.06; HAWKINS, SU, 2256.31; HEARTLAND COUNSELING SERVICES, SE, 58.95; HEWLETT PACKARD ENTERPRISE, SE, 4939.20; HILAND DAIRY, SE, 250.35; ISLAND SPRINKLER SUPPLY, SU, 193.43; JECH, LEAH, RE, 500.00; JEO CONSULTING GROUP, SE, 4266.67; KELLY SUPPLY, SU, 505.79; KOUATIL, ZAYNAB, FE, 400.00; MARCO, SE, 175.92; MARCO TECHNOLOGIES, SE, 180.50; MATT FRIEND TRUCK EQUIPMENT, SU, 338.17; MUNICIPAL SUPPLY, SU, 1136.66; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 126.00; ODEYS, SU, 1075.90; O'REILLY AUTOMOTIVE STORES, SU, 314.15; OVERDRIVE, SU, 26.99; POSTMASTER, SU, 1023.06; STADIUM SPORTING GOODS, SU, 1092.00; THOMAS, JOSEPH, RE, 185.00; TRI-STATE COMMUNICATIONS, SU, 6118.67; USA BLUE BOOK, SU, 581.16; VIAERO, SE, 68.88; WESCO, SU, 58753.70; WHITE, TAMI, RE, 1000.00; WINNING FINISH, SE, 210.00; ZIMCO SUPPLY, SU, 1080.00; ACE HARDWARE & HOME, SU, 694.86; ALL HOURS TOWING, SE, 225.00; AMERITAS, SE, 168.44; AMERITAS, SE, 35.00; AMERITAS, SE, 97.94; AMERITAS, SE, 3430.64; AMERITAS, SE, 72.00; APPEARA, SE, 130.45; BIG STONE TRANSPORTATION & LANDSCAPE SUPPLY, SU, 1500.00; BLACKBURN MANUFACTURING, SU, 538.77; BLUE CROSS BLUE SHIELD, SE, 48155.01; CARHART KITCHEN & BATH, SU, 610.00; CARHART KITCHEN & BATH, SU, -610.00; CDW GOVERNMENT, SU, 12224.88; CINTAS, SU, 230.78; CIRBA SOLUTIONS SERVICES, SU, 102.00; CITY EMPLOYEE, RE, 984.82; CITY OF NORFOLK, RE, 9689.52; CITY OF WAYNE, RE, 500000.00; CITY OF WAYNE, PY, 121327.67; CITY OF WAYNE, RE, 192.63; COLONIAL RESEARCH, SU, 127.96; DEARBORN LIFE INSURANCE COMPANY, SE, 2957.94; DOORLAG, TOM, RE, 100.00; DUFFY, DAVID, RE, 500.00; DUTTON-LAINSON COMPANY, SU, 436.97; ED M. FELD EQUIPMENT, SU, 767.00; FIRST CONCORD GROUP, SE, 6271.96; FLOOR MAINTENANCE, SU, 197.19; GERHOLD CONCRETE, SU, 1116.64; GLOBAL PAYMENTS INTEGRATED, SE, 908.92; HAWKINS, SU, 119.59; HELENA AGRI-ENTERPRISES, SU, 1164.00; HILAND DAIRY, SE, 273.80; HOMETOWN LEASING, SE, 465.14; ICMA, SE, 36.84; ICMA, SE, 189.32; ICMA, SE, 166.28; ICMA, SE, 495.46; ICMA, SE, 8474.99; ICMA, SE, 2180.90; ICMA, SE, 127.36; ICMA, SE, 70.00; ICMA, SE, 142.75; ICMA, SE, 413.68; ICMA, SE, 200.00; IRS, TX, 4644.58; IRS, TX, 19859.88; IRS, TX, 12311.91; JEFF'S RPM SERVICE, SU, 4489.24; LUTT OIL, SU, 7105.45; MARRIOTT HOTELS, SE, 238.00; MERCHANT SERVICES, SE, 4572.92; MERCHANT SERVICES, SE, 94.10; MERCHANT SERVICES, SE, 1788.64; MILLER LAW, SE, 5416.67; NE DEPT OF REVENUE, TX, 5944.97; NPPD, SE, 8076.56; NORTHEAST NE INS AGENCY, SE, 122235.00; NORTHEAST POWER, SE, 7924.00; ONE CALL CONCEPTS, SE, 121.88; OPTK NETWORKS, SE, 582.51; O'REILLY AUTOMOTIVE STORES, SU, 635.34; PAC N SAVE, SU, 60.05; PAC N SAVE, SU, 1643.00; QUALITY FOOD CENTER, SU, 38.86; SARGENT DRILLING, SE, 1200.00; SERVICE TECH OF CENTRAL IOWA, SE, 4336.07; SMITH, AARON, RE, 1000.00; SOUTH SIOUX CITY /DAKOTA COUNTY, RE, 10581.85; STAPLES, SU, 31.40; STATE NEBRASKA BANK & TRUST, SE, 66.00; STATE NEBRASKA BANK-PETTY CASH, SU, 102.74; UNIVERSITY OF NE-LINCOLN, RE, 250.00; WASTE CONNECTIONS, SE, 548.94; WAED, SE, 8980.41; WAYNE AUTO PARTS, SU, 546.45; WAYNE HERALD, SE, 190.00; WAYNE HERALD, SE, 335.00; WAYNE HERALD, SE, 1218.13

Councilmember Webber made a motion, which was seconded by Councilmember Bratcher, to approve the claims. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Mick Kemp was present requesting Council consideration to installing a permanent stop sign on the west side of the corner of 5th Street and Schoolview Drive. The same is not enforceable because it is not included in the code book.

After discussion, consensus was to bring forward an ordinance at the next meeting for Council action to include this stop sign location at the corner of 5th Street and Schoolview Drive in the Municipal Code.

Luke Virgil, Director of Wayne Area Economic Development, was present representing the LB840 Revolving Loan Fund Review Committee. The LB840 Revolving Loan Fund Review Committee met on June 29th and reviewed a revolving loan fund application to Wayne's Economic Development Program in the amount of \$200,000 by "Blazer, LLC." The owners of Blazer, LLC (Kirk Diers and Brent Ogle) will utilize the funds to purchase Innovative Protectives, Inc. Along with the purchase of Innovative Protectives, Inc., Blazer, LLC, will continue operations in the current facility, bring a specific manufacturing process and project line back to Wayne, and increase the number of employees at the facility. The LB840 Revolving Loan Fund Review Committee voted unanimously to recommend the following terms for a loan to Blazer, LLC:

- Approval of the loan request of \$200,000;
- A loan repayment period of 5 years; and
- An interest rate to be set at one-half the rate set by the primary lender (Primary Lender Rate – RVR Bank, Fremont NE: 6.75%; WEDP Rate: 3.375%).

Kirk Diers and Brent Ogle were present to answer questions. In addition, they were requesting Council consideration to reducing the interest rate to 1%. They have 4 full-time employees at this time. They would like to employ 8-10 employees.

When this application was made, there was \$592,000 or more in the fund available to be used.

After discussion, Councilmember Eischeid made a motion, which was seconded by Councilmember Webber, to approve the recommendation of the LB840 Revolving Loan Fund Review Committee for a \$200,000 revolving loan to Blazer, LLC, with the following conditions: a loan repayment period of 5 years, at an interest rate of 2%.

When asked, they stated they would like to close by August 1st, and would prefer monthly payments.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Matthew Smith, Engineer with Olsson, presented Change Order No. 3 in the amount of \$4,025.00, to Robert Woehler & Sons Construction, Inc., for the “Lincoln Street Improvement Project.” This Change Order is a result of quantity adjustments (missing paving quantities). Olsson re-measured and this was completed or constructed so they are recommending that the same be approved. Olsson realizes the inconvenience in this and that it is not typical, so they are offering to pay for one-half of the cost (\$2,025.00).

Councilmember Eischeid made a motion, which was seconded by Councilmember Buck, approving Change Order No. 3 in the amount of \$4,025.00, to Robert Woehler & Sons Construction, Inc., for the “Lincoln Street Improvement Project.” Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Matthew Smith, Engineer with Olsson, presented Certificate of Payment No. 5 on the “Lincoln Street Improvement Project” for \$4,025.00 to Robert Woehler & Sons Construction, Inc.

Councilmember Eischeid made a motion, which was seconded by Councilmember Buck, approving Certificate of Payment No. 5 for \$4,025.00 to Robert Woehler & Sons Construction, Inc., for the “Lincoln Street Improvement Project.” Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Matthew Smith, Engineer with Olson, gave an update on the Prairie Park Project.

Mr. Smith then presented and reviewed the utility plans, specifications and estimate of cost of \$1,200,000, for the “Prairie Park Project.” They have wrapped up the utility plans for Prairie Park (water, sewer, and creek outlet) and are ready to start discussing bid/construction dates, as proposed below:

- July 6th – Approve the plans and go out for bid

- July 13th, 20th, 27th, & August 3rd - bid advertisements
- August 10th - bid opening
- August 15th - City Council award
- September through November Construction. This will be pending the grading work, so Olsson is requesting that the construction completion date be extended into next spring.

Councilmember Eischeid introduced Resolution No. 2023-45 and moved for its approval,

Councilmember Karsky seconded.

RESOLUTION NO. 2023-45

A RESOLUTION APPROVING THE UTILITY PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR THE “PRAIRIE PARK PROJECT,” AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS.

Mr. Smith would check on whether or not the contract has liquidated damages included therein.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

The following Resolution would approve the Scope of Services and Task Order No. 230243.00 with JEO Consulting Group, Inc., for the “7th Street Trail Project.”

Roger Protzman, Engineer with JEO Consulting Group, Inc., stated the City intends to use CDBG funding to construct a 6-foot or 8-foot wide concrete trail on the north side of and running parallel to Highway 35/7th Street on the west end of town between 575th Avenue and the Greenwood Cemetery entrance as an extension of Wayne’s master trail plan. The scope of this agreement is to provide design, bidding and construction phase services for a lump sum fee of \$133,570.

Preference was to construct a 6-foot wide concrete trail.

Administrator Blecke stated this total project cost estimate is about \$1,000,000. We have \$400,000 in grant funds. This would be allocated into next fiscal year.

In accordance with the Master Services Agreement with JEO Consulting Group, Inc., a 5% discount would be given on these fees, which would then bring the fees down to \$126,891.50.

Councilmember Eischeid introduced Resolution 2023-46, and moved for its approval; Councilmember Webber seconded.

There being no further business to come before the meeting, Council President Brodersen declared the meeting adjourned at 6:49 p.m.



Vendor Council Approved 7/6/23	Payable Description	Payment Total
ROBERT WOEHLE	LINCOLN ST	4,025.00

Vendor	Payable Description	Payment Total
ALL HOURS TOWING LLC	TOWING CHARGES	225.00
AMERITAS LIFE INSURANCE	AMERITAS ROTH	168.44
AMERITAS LIFE INSURANCE	AMERITAS ROTH	35.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT 457 PERCENTAGE	123.30
AMERITAS LIFE INSURANCE	POLICE RETIREMENT 457 AMOUNT	72.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	3,568.60
APPEARA	CAC MAT SERVICE	56.51
ASSOCIATION FOR RURAL & SMALL LIBRARIES	MEMBERSHIP RENEWAL	50.00
BAKER & TAYLOR BOOKS	BOOKS	419.51
BLACK HILLS ENERGY	GAS BILLS	470.68
CIRBA SOLUTIONS SERVICES	BATTERY RECYCLING BUCKETS	204.00
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	67.52
CITY OF WAYNE	PAYROLL	121,971.62
CITY OF WAYNE	UTILITY REFUND VOID	-198.78
CITY OF WAYNE	UTILITY REFUND	268.03
CIVICPLUS	CIVIC ENGAGE	160.00
COMMUNITY REDEVELOPMENT AUTHORITY	LINE OF CREDIT DRAW	45,000.00
COPY WRITE PUBLISHING	OFFICE SUPPLIES/SHIPPING CHARGES	417.75
CORE & MAIN LP	IPEARL WATER METERS/HYDRANT EXTENSIONS	3,330.72
COTTONWOOD WIND PROJECT, LLC	WIND ENERGY	8,676.41
DAS STATE ACCTG-CENTRAL FINANCE	WSC INTERNET CHARGES	62.36
DAVE'S DRY CLEANING	POLICE UNIFORM CLEANING	24.00
DOESCHER REPAIR	WASHER REPAIR	134.00
ELKINS PORTABLE RESTROOMS, LLC	BOY SCOUT PORTABLE RESTROOM	260.00
FAITH REGIONAL PHYSICIAN SERV.	RANDOM TESTING	99.50
GERHOLD CONCRETE CO INC.	CONCRETE	2,593.28
GROSSENBURG IMPLEMENT INC	BLADES/COTTER/PICKER PINS	228.98
HAWKINS, INC	POOL CHEMICALS	2,858.86
HILAND DAIRY	SENIOR CENTER FOOD SERVICE	111.20
HYDRAULIC SALES & SERVICE	REPAIRED HYDRAULIC CYLINDAR	415.94
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	8,474.99
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	36.84
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	ROTH ICMA	413.68
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	ROTH ICMA	142.75
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	189.32
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	200.00
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	166.28
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	495.46
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	ICMA RETIREMENT	2,180.90
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	ROTH IRA -ICMA	127.36
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	ROTH IRA - ICMA	70.00
IRS	FICA WITHHOLDING	20,025.10

IRS	MEDICARE WITHHOLDING	4,683.24
IRS	FEDERAL WITHHOLDING	12,808.96
J. F. AHERN CO.	SPRINKLER INSPECTION	356.00
JEO CONSULTING GROUP	GENERATION CAPACITY OPTIONS	1,860.00
KTCH AM/FM RADIO	CAC ADS	155.00
MID-IOWA SOLID WASTE	ECO SEWER CLEANER	95,896.04
MIDWEST LABORATORIES, INC	WASTEWATER ANALYSIS	288.07
MIDWEST TAPE LLC	AUDIO BOOK	127.98
MUNICIPAL SUPPLY INC	WATER METER	1,317.50
NDEE-FISCAL SERVICES	POOL OP CERTIFICATE	40.00
NE DEPT OF REVENUE	STATE WITHHOLDING	6,111.39
NE LIBRARY ASSOCIATION	MEMBERSHIP DUES	75.00
NE LIBRARY COMMISSION	CAT EXPRESS RENEWAL	2,482.00
NE POWER REVIEW BOARD	2022 POWER ASSESSMENT	963.97
NORTHEAST TIRE SERVICE	TURF TIRES/TIRE REPAIR	385.00
OCLC, INC	WORLDSHARE ILL	575.06
ODEYS INC	INFIELD CONDITIONER	558.00
O'REILLY AUTOMOTIVE STORES, INC.	JACK STANDS/SPLICE/TOGGLE SWITCH	124.36
OVERDRIVE, INC.	AUDIO/ E BOOKS	1,146.19
PEPSI COLA OF SIOUXLAND INC	CAC POP	228.57
PETERS, TRICIA	POOL PASS OVERPAYMENT	125.00
PLUNKETT'S PEST CONTROL	PEST CONTROL	107.64
PSYCHOLOGICAL RESOURCES	PSYCHOLOGICAL EVALUATION	150.00
SCHLICKBERND'S APPLIANCE	REFRIGERATOR	954.00
SCHULTZ, EVERETT	RIGHT OF WAY DEPOSIT REFUNDS	1,000.00
SEBADE HOUSING LLC	TIF PRINCIPAL/INTEREST	8,624.24
STADIUM SPORTING GOODS	EMBROIDERY	144.00
STAPLES, INC	JANITORIAL SUPPLIES	6.97
TYLER TECHNOLOGIES	INSITE TRANSACTION FEES	3,283.75
US BANK	FLY IN VIDEOGRAPHY/POOL SUPPLIES/TELEPHONES	10,544.56
	BOOKS/DVD'S/REGISTRATIONS/MEALS	
US FOODSERVICE, INC.	SENIOR CENTER NOON MEAL SUPPLIES	2,997.96
UTILITY EQUIPMENT CO	HYDRAULIC CHAIN SAW/SAFETY CLAMP	7,240.90
VERIZON WIRELESS SERVICES LLC	CELL PHONES	584.08
WAYNE AREA ECONOMIC DEVELOPMENT	FIREWORKS DONATION	2,000.00
WAYNE COUNTY CLERK	FILING FEES	144.00
WAYNE STATE COLLEGE	FILING CABINET	60.00
WAYNE VETERINARY CLINIC	DOG/CAT IMPOUND	210.00
WESCO DISTRIBUTION INC	CRIMPS	236.47
WESTERN AREA POWER ADMIN	ELECTRICITY	23,259.01
ZACH HEATING & COOLING	AIR CONDITIONER REPAIR/WASHER	1,581.60
	Grand Total:	421,858.62

**NOTICE OF PUBLIC HEARING ON AN APPLICATION FOR THE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

NOTICE IS HEREBY GIVEN that on July 18, 2023, in the City Council Chambers, the City of Wayne will hold a public hearing concerning an application to the Nebraska Department of Economic Development for a Community Development Block Grant (CDBG). This grant is available to local governments for community/ economic development activities.

The City of Wayne is requesting \$600,000 in Land and Water Conservation Funds (LWCF) for implementing the third phase of their Prairie Park project, including lake access for kayaks, ADA jetties for fishing access, a bridge, ADA trail access to the lake, and a bathhouse for future campers. Total project costs will be \$1,200,000, with a \$600,000 match from the City. In an effort to improve quality of life for Wayne residents through outdoor recreation, the City has determined outdoor water recreation that is accessible for all residents is a priority. The project is in the Wayne Municipal Area in the southeast corner of the City and repurposes an old lagoon site that is owned by the City. No businesses, farms, or residents will be displaced because of this project.

The grant application will be available for public inspection at City Offices. All interested parties are invited to attend this public hearing, at which time you will have an opportunity to be heard regarding the grant application. Written and oral testimony will also be accepted at the public hearing scheduled for 5:30 p.m., July 18, 2023, at the City Council Chambers, 306 Pearl Street, Wayne, NE 68787. Written comments addressed to Betty A. McGuire, City Clerk, PO Box 8, 306 Pearl Street, Wayne, NE 68787, will be accepted if received on or before July 17, 2023.

Individuals requiring physical or sensory accommodations, including interpreter service, Braille, large print, or recorded materials, please contact Betty A. McGuire, City Clerk, PO Box 8, 306 Pearl Street, Wayne, NE 68787, or at (402) 375-1733 no later than July 17, 2023. Accommodations will be made for persons with disabilities and non-English speaking individuals, provided that a one-day notice is received by the City of Wayne.

RESOLUTION 2023-47

A RESOLUTION ON THE DEVELOPMENT FOR OUTDOOR RECREATION.

The City of Wayne, Nebraska, proposes to apply for federal assistance from the Land and Water Conservation Fund program for the purpose of:

The Mayor is authorized to sign documents to obtain financial assistance, including a Project Agreement with the State of Nebraska and the National Park Service.

The City of Wayne will, within thirty (30) days following federal approval, obtain the necessary consultant or appraisal service for this project as directed and as required by Nebraska Game and Parks Commission staff.

The City of Wayne, Nebraska, has budgeted or currently has available its 50 percent match of the proposed total project funds and will allocate these funds toward this project upon project approval by the Nebraska Game and Parks Commission.

The City of Wayne, Nebraska, has the financial capability to operate and maintain the completed project and park property in a safe, attractive and sanitary manner.

The City of Wayne, Nebraska, will not discriminate against any person on the basis of race, color, age, religion, disability, sex or national origin in the use of any property or facility acquired or developed pursuant to the project proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, P.L. 88-354 (1964), and any of the regulations promulgated pursuant to such Act by the Secretary of the Interior and contained in 43 CFR 17.

No property acquired and/or developed under this project shall, without the approval of the Nebraska Game and Parks Commission and the Secretary of the Interior, be converted to other than public outdoor recreation use. And, such approval may be granted only if it is in accord with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP), and only upon such conditions as deemed necessary to assure the substitution of other outdoor recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location.

The City of Wayne, Nebraska, will replace the land in the event of a conversion in use in accordance with Section 6(f)(3) of the Land and Water Conservation Fund act of 1965, as amended.

The City of Wayne, Nebraska, agrees to comply with all State and Federal requirements and standards where they can be applied in making the facilities developed under this project, and all future projects, accessible to and usable by the disabled.

This is to certify that this Resolution is a true copy of the original document that was adopted and passed by the City of Wayne, Nebraska, at a duly advertised public meeting held this 18th day of July, 2023.

PASSED AND APPROVED this 18th day of July, 2023.

THE CITY OF WAYNE, NEBRASKA

By _____

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2023-14

AN ORDINANCE AMENDING TITLE VII TRAFFIC CODE, PROHIBITIONS AND ENFORCEMENT, SECTION 78-13 STOP SIGN LOCATIONS; WEST OF MAIN STREET, SOUTH OF SEVENTH STREET; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Title VII Traffic Code, Prohibitions and Enforcement, Section 78-13 of the Wayne Municipal Code is amended to read as follows:

Sec. 78-13. Stop sign locations; west of Main Street, south of 7th Street.

(A) Stop signs are established at the following locations in the city:

Donner Pass at the west approach of Nathan Drive
Grainland Road at the north approach of South Maple Street
Grainland Road at the north approach of South Blaine Street
Grainland Road at the north approach of Pheasant Run Road
Main Street at the west approach of West 4th Street
Main Street at the west approach of West 5th Street
Main Street at the west approach of West 6th Street
Main Street at the west approach of West 1st Street
Oak Drive at the west approach of 3rd Avenue
Oak Drive at the east approach of West 3rd Street
Pearl Street at the east and west approaches of West 6th Street
Pearl Street at the east and west approaches of West 5th Street
Pearl Street at the east and west approaches of West 2nd Street
Pearl Street at the east and west approaches of West 3rd Street
Pearl Street at the east and west approaches of West 4th Street
Pheasant Run at the east and west approaches of Grainland Road
Schoolview Drive at the west approach of West 5th Street
Sherman Street at the east and west approaches of West 6th Street

South Sherman Street at the west approach of Grainland Road
South Main Street at the west approach of Clark Street
West 1st Street at the north and south approaches of Douglas Street
West 1st Street at the north and south approaches of Lincoln Street
West 1st Street at the north and south approaches of Pearl Street
West 1st Street at the north and south approaches of Sherman Street
West 1st Street at the north approach of Blaine Street
West 3rd Street at the north and south approaches of Douglas Street
West 3rd Street at the north and south approaches of Sherman Street
West 3rd Street at the south approach of Blaine Street
West 3rd Street at the south approach of Wilcliff Drive
West 3rd Street at the north and south approaches of Lincoln Street
West 4th Street at the north and south approaches of Sherman Street
West 5th Street at the north and south approaches of Sherman Street
West 7th Street at the south approach of Pearl Street
West 7th Street at the south approach of Lincoln Street
West 7th Street at the south approach of Douglas Street
West 7th Street at the south approach of Sherman Street
West 7th Street at the south approach of Oak Drive
West 7th Street at the south approach of Donner Pass
West 7th Street at the south approach of Pheasant Run
West 7th Street at the south approach of Community Activity Center Driveway

(B) Except where directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop, which, for the purpose of this section, shall be a completed cessation or movement, at a clearly marked stop line, but if there is no such line, then before entering the crosswalk on the near side of the intersection or, if no crosswalk as indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic from the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on such street as to constitute an immediate hazard if such driver moved across or into such intersection.

(C) It shall be unlawful for any person to violate the provisions of this section.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect after the passage, approval, and publication or posting as provided by law.

PASSED AND APPROVED this 18th day of July, 2023.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2023-15

AN ORDINANCE AMENDING TITLE XV LAND USAGE, CHAPTER 152 ZONING, SECTION 152.111 SFP FLOODPLAIN DISTRICT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE THAT SAID ORDINANCE BE PUBLISHED IN PAMPHLET FORM.

Section 1. That Title XV Land Usage, Chapter 152 Zoning, Section 151.222 SFP Flood Plain District, shall be amended in its entirety as follows:

152.111 SFP Floodplain District

(A) *Statutory authorization, findings of fact and purposes.*

(1) *Statutory authorization.* The legislature of the state has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The legislature, in Neb. RS 31-1001 to 31-1022 (as amended), has further assigned the responsibility to adopt, administer and enforce floodplain management regulations to the county, city, or village with zoning jurisdictions over the flood-prone area. Therefore, the city ordains as follows.

(2) *Findings of fact.*

(a) *Flood losses resulting from periodic inundation.* The flood hazard areas of the city 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.

(b) *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; and

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.

(c) *Methods used to analyze flood hazards.* This section uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:

1. 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 the inundation. The base flood is selected for this section. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this section. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated ~~3-30-2006 (preliminary) as amended and effective date not yet determined by FEMA~~ effective on March 18, 2008.

2. 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;

3. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point; and

4. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.

(3) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described herein by applying the provisions of this section 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; and

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

(B) *General provisions.*

(1) *Lands to which section applies.* This section shall apply to all lands within the jurisdiction of the city identified on the Flood Insurance Rate Map (FIRM) dated ~~3-30-2006 (preliminary) and effective date not yet determined by FEMA~~ **effective on March 18, 2008**, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within Zoning Districts FW and FF established herein. In all areas covered by this section no development shall be permitted, except upon the issuance of a floodplain permit to develop, granted by the city or its duly designated representative under such safeguards and restrictions as the city 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 herein.

(2) *The Enforcement Officer.* The Zoning Administrator/Chief Building Official of the community is hereby designated as the community's duly designated Enforcement Officer under this section.

(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 Adjustment (Appeal Board) will resolve the dispute. The regulatory flood elevation for the point in question shall be

the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board of Adjustment and to submit his or her own technical evidence, if he or she so desires.

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

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

(6) *Interpretation.* In their interpretation and application, the provisions of this section 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.

(7) *Warning and disclaimer of liability.* The degree of flood protection required by this section 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 human-made or natural causes, such as ice jams and bridge openings restricted by debris. This section 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 section shall not create liability on the part of the city or any officer or employee thereof for any flood damages that may result from reliance on this section or any administrative decision lawfully made thereunder.

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

(9) *Appeal.* Where a request for a permit to develop or a variance is denied by the Zoning Administrator/Chief Building Official, the applicant may apply for such permit or variance directly to the Board of Adjustment.

(C) *Development permit.*

(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 herein.

(2) *Administration.*

(a) The Zoning Administrator/Chief Building Official is hereby appointed to administer and implement the provisions of this section.

(b) Duties of the Zoning Administrator/Chief Building Official 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 section 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 State 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; and
 8. When floodproofing is utilized for a particular structure the Zoning Administrator/Chief Building Official shall be presented certification from a registered professional engineer or architect.
- (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 or her authorized agent who may be required to submit evidence to indicate such authority; and
 - (f) Give such other information as reasonably may be required by the Zoning Administrator/Chief Building Official.

(D) *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 section and those standards of the underlying zoning district shall be prohibited.

(E) *Standards of 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 hereof. 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 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; and

(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 acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

(F) *Flood Fringe Overlay District (including AO and AH Zones).*

(1) *Permitted uses.* Any use permitted herein shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards hereof are met.

(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 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 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 division (F)(2)(b) are satisfied. Such certification shall be provided to the Zoning Administrator/Chief Building Official as set forth herein;

(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:

1. 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 frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

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

b. Frame ties 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;

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

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

2. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:

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 foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions hereof.

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions hereof be elevated so that either:

a. The lowest floor of the manufactured home is at or above one 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 hereof.

(f) 1. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either:

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

b. Be fully licensed and ready for highway use; or

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

2. 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 herein are areas designated as AO Zones. These areas have special flood hazard associated with base flood depths of three to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones.

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

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

a. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth herein.

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

(h) Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily moveable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood; and, provided that, no utilities are installed in the structure except elevated or flood proofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

(G) *Floodway Overlay District.*

(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:

- (a) Agricultural uses such as general farming, pasture, nurseries, forestry;
- (b) Residential uses such as lawns, gardens, parking and play areas;
- (c) Non-residential uses such as loading areas, parking and airport landing strips; and

(d) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

(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 hereof. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or this section, in meeting the standards of this section.

(H) *Variance procedures.*

(1) *Variance procedures.*

(a) The Board of Adjustment as established by the city shall hear and decide appeals and requests for variances from the requirements of this section.

(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 Zoning Administrator/Chief Building Official in the enforcement or administration of this section.

(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 Neb. RS 19-912.

(d) In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this section, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;
5. The necessity of the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles:
 - a. 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
 - b. 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.

(2) 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 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:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. 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) This application 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 for \$100 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 section.

(I) *Non-conforming use.*

(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 section 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 section. The Utility Department shall notify the Zoning Administrator/Chief Building Official in writing of instances of non-conforming uses where utility services have been discontinued for a period of three months.

(b) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as non-conforming uses.

(2) If any non-conforming 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 if that it is reconstructed in conformity with the provisions of this section. 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.

(J) *Amendments.* The regulations, restrictions and boundaries set forth in this section 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 on the city. At least 15 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 section are in compliance with the National Flood Insurance Program Regulations as published in 44 C.F.R. and the 1983 Nebraska Flood Plain Management Act, being Neb. RS 31-1001 to 31-1023.

(K) *Definitions.* For the purpose of this section, the following definitions shall apply unless the

context clearly indicates or requires a different meaning.

APPEAL. A request for a review of the Zoning Administrator/Chief Building Official's interpretation of any provision of this section or a request for a variance.

APPURTENANT STRUCTURE. A structure on the same parcel of property as the principal structure, the use of which is identical to the use of the principal structure.

AREA OF SHALLOW FLOODING. A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of 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. The flood having 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before 1-1-1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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. 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. A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD FRINGE. The area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a 1% chance of flood occurrence in any one year).

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Flood

Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source. (See definition of flooding.)

FLOODWAY or REGULATORY FLOODWAY. 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. 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 on urbanization of the watershed.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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. 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 section.

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

OVERLAY DISTRICT. A district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

RECREATIONAL VEHICLE. A vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

SPECIAL FLOOD HAZARD AREA. The land in the floodplain within a community subject to 1% or greater chance of flooding in any given year.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Barrier Resources Act (Pub. Law No. 97-348), being 16 USC 3501 et seq., 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. A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "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:

(a) 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

(b) Any alteration of a "historic structure"; provided that, the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCES. A grant of relief to a person from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in necessary hardship.

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

(2002 Code, § 90-571)

(L) *Permitted principal uses and structures.* Any permitted principal use and structure in the parent district to which the SFP District is made a part is permitted, provided such uses and structures meet the minimum requirements of division (O) below.

(2002 Code, § 90-572)

(M) *Permitted accessory uses and structures.* Any permitted accessory use and structure in the parent district to which this district is made a part is permitted; provided, such uses and structures meet the minimum requirements of division (O) below.

(2002 Code, § 90-573)

(N) *Exceptions.* After the provisions of this chapter relating to exceptions have been fulfilled, the City Planning Commission may permit all conditional uses permitted as exceptions in the parent district

of which the SFP District is made a part.

(2002 Code, § 90-574)

(O) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall supplement the special conditions and/or conditions for granting exceptions which are provided in the parent district of which the SFP District is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations.

(1) Where by reason of flooding potential the Zoning Administrator determines that there are detrimental or limiting conditions for development or where there is indicated the possibility of detrimental or limiting conditions for development, the Zoning Administrator shall require such persons making application for a building permit to provide four copies of the following to the City Planning Commission:

(a) A site plan at an appropriate scale indicating:

1. The name and address of the applicant;
2. Lot dimensions and legal description of the property;
3. The location, elevation, size, height and proposed use of all structures;
4. Yards and space between structures;
5. Off-street parking;
6. Location of public streets and highways and points of pedestrian and vehicular ingress and egress;
7. Signs; and
8. Areas which will require significant land forming.

(b) Topographic information providing the elevations of the site above mean sea level, the proposed first floor elevations of all principal structures and accessory structures, and all specifications for grading and fill.

(2) The Zoning Administrator shall transmit one copy of all required documentation to the natural resource district for review and comment. Such review and comment, if any, shall be made a part of the record of the City Planning Commission.

(3) As conditions for granting a building permit, the Board of Adjustment may require specific measures which are intended to minimize the hazard due to flooding and which shall include the following.

(a) The first floors of buildings or structures shall be placed one foot above the elevation of the 100-year flood.

(b) Foundations of all structures shall be designed and constructed to withstand flood conditions at the proposed construction site.

(c) Basements, lower floors or appurtenances located below the elevation of the 100-year flood shall be designed and constructed to prevent passage of water into the building or structure and to withstand flood conditions, including hydrostatic pressures of elevated water tables and the momentum of flood flows. Materials for construction shall be of a type not deteriorated appreciably by water. Windows, doorways and other openings into the building or structure that are located below the elevation of the 100-year flood shall be designed and constructed incorporating adequate floodproofing.

(d) All electrical equipment, circuits and installed electric appliances shall be located so as to not be subject to flooding or shall be floodproofed to prevent damage resulting from inundation from the 100-year flood.

(e) Sanitary and storm sewer drains shall be equipped with valves capable of being closed, manually or automatically, to prevent backup of sewage and storm waters into the building or structure. Gravity draining of basements may be eliminated by mechanical devices.

(f) Any chemical storage, explosive, buoyant and flammable liquid storage shall be located above the 100-year flood level or shall be adequately floodproofed to prevent flotation of tanks or other appreciable damage or escape into the floodwaters of toxic materials.

(g) Land may be filled provided such fill extends 15 feet beyond the limits of any building or structure erected on the land.

(2002 Code, § 90-575)

(P) *Pro hibited uses and structures.* All uses prohibited in the parent district of which the SFP District is made a part shall be prohibited.

(2002 Code, § 90-576)

(Q) *Minimum lot requirements.* The lot requirements of the parent district for which the SFP District is made a part shall be the minimum lot requirements subject to additional requirements as prescribed by the City Planning Commission.

(2002 Code, § 90-577)

(R) *Minimum yard requirements.* The yard requirements of the parent district of which the SFP District is made a part shall be the minimum yard requirements subject to additional requirements as prescribed by the City Planning Commission.

(2002 Code, § 90-578)

(S) *Maximum lot coverage.* The lot coverage requirements of the parent district of which the SFP District is made a part shall be the maximum lot coverage requirements subject to additional requirements as prescribed by the City Planning Commission.

(T) *Maximum height.* The height requirements of the parent district of which the SFP District is made a part shall be the maximum height requirements subject to additional requirements as prescribed by the City Planning Commission.

(2002 Code, § 90-580)

(U) *Sign regulations.* The sign regulations of the parent district of which the SFP District is made a part shall be the minimum requirements for sign regulations subject to additional requirements as prescribed by the City Planning Commission.

(2002 Code, § 90-581)

(V) *Parking regulations.* Parking shall be in conformance with the provisions of § 152.139 of this chapter.

(2002 Code, § 90-582)

(Ord. 93-11, passed 9-28-1993; Ord. 2008-3, passed 1-15-2008)

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 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 county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the City of Wayne (**governing body**) of Wayne (**local unit**), Nebraska, ordains as follows:

1.2 FINDINGS OF FACT

1.21 Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Wayne (**local unit**), 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.

1.22 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.

1.23 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 March 30, 2006 (preliminary) as amended and effective date not yet determined by FEMA.
- 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.

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 1.21 by applying the provisions of this ordinance to:

- 1.31 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.
- 1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- 1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- 1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

SECTION 2.0 GENERAL PROVISIONS

2.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Wayne (**local unit name**) identified on the Flood Insurance Rate Map (FIRM) dated March 30, 2006 (preliminary) and effective date not yet determined by FEMA, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 4.0 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 of Wayne (**governing body**) or its duly designated representative under such safeguards and restrictions as the City of Wayne (**governing body**) 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 5.0, 6.0, and 7.0.

2.2 THE ENFORCEMENT OFFICER

The Zoning Administrator/Chief Building Official (**local administrator**) of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

2.3 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 Adjustment (**appeal board**) 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 Board of Adjustment (**appeal board**) and to submit his own technical evidence, if he so desires.

2.4 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.

2.5 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.

2.6 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.

2.7 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 Wayne, Nebraska (**name of local unit**) 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.

2.8 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.

2.9 APPEAL

Where a request for a permit to develop or a variance is denied by the Zoning Administrator/Chief Building Official (**local administrator**) the applicant may apply for such permit or variance directly to the Board of Adjustment (**appeal board**).

SECTION 3.0 DEVELOPMENT PERMIT

3.1 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 12.0.

3.2 ADMINISTRATION

- A. The Zoning Administrator/Chief Building Official (**local administrator**) is hereby appointed to administer and implement the provisions of this ordinance.
- B. Duties of the Zoning Administrator/Chief Building Official (**local 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/Chief Building Official (**local administrator**) shall be presented certification from a registered professional engineer or architect.

3.3 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:

- 3.31 Identify and describe the development to be covered by the floodplain development permit.
- 3.32 Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
- 3.33 Indicate the use or occupancy for which the proposed development is intended.
- 3.34 Be accompanied by plans and specifications for proposed construction.
- 3.35 Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- 3.36 Give such other information as reasonably may be required by the Zoning Administrator/Chief Building Official (**local administrator**).

SECTION 4.0 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.

SECTION 5.0 STANDARDS FOR FLOODPLAIN DEVELOPMENT

- 5.1 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.

- 5.2 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.
- 5.3 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.
- 5.4 New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - 5.41 Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - 5.42 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.
 - 5.43 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.
 - 5.44 All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
- 5.5 Storage of Material and Equipment
 - 5.51 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.
 - 5.52 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.
- 5.6 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.

SECTION 6.0 FLOOD FRINGE OVERLAY DISTRICT - (Including AO and AH Zones)

6.1 PERMITTED USES

Any use permitted in Section 7.0 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 5.0 are met.

6.2 STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT

- 6.21 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.
- 6.22 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 **(local administrator)** Zoning Administrator/Chief Building Official as set forth in Section 3.2, B(7).
- 6.23 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.
- 6.24 Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- 6.25 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 6.25B 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 6.25A.

6.26 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.

6.27 Located within the areas of special flood hazard established in Section 2.1 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 3.2B(7).
- C. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

6.28 Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood and provided that no utilities are installed in the structure except elevated or flood proofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

SECTION 7.0 FLOODWAY OVERLAY DISTRICT

7.1 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:

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

7.2 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 5.0 and 6.0. 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.

SECTION 8.0 VARIANCE PROCEDURES

- 8.1 The Board of Adjustment (**appeal board**) as established by City of Wayne (**local unit**) shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 8.2 The Board of Adjustment (**appeal board**) 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/Chief Building Official (**local administrator**) in the enforcement or administration of this ordinance.
- 8.3 Any person aggrieved by the decision of the Board of Adjustment (**appeal board**) or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R.R.S. 1943 (**For Counties**); 19-912, R.R.S. 1943 (**For Municipalities**).
- 8.4 In passing upon such applications, the Board of Adjustment (**appeal board**) shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - 8.41 The danger that materials may be swept onto other lands to the injury of others;
 - 8.42 The danger to life and property due to flooding or erosion damage;
 - 8.43 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 8.44 The importance of the services provided by the proposed facility to the community;
 - 8.45 The necessity to the facility of a waterfront location, where applicable;
 - 8.46 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 8.47 The compatibility of the proposed use with existing and anticipated development;
 - 8.48 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - 8.49 The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 8.491 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,

8.492 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.

8.5 CONDITIONS FOR VARIANCES

- 8.51 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.
- 8.52 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.
- 8.53 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.
- 8.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 8.55 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.
- 8.56 This application 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 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.

SECTION 9.0 NONCONFORMING USE

- 9.1 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:
- 9.11 If such use is discontinued for 12 (twelve) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator/Chief Building Official (**local administrator**) in writing of instances of nonconforming uses where utility services have been discontinued for a period of 3 (three) months.
- 9.12 Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

9.2 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.

SECTION 10.0 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 \$500, 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 of Wayne (**local unit**) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 11.0 AMENDMENTS

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 the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Wayne (**local unit**). At least 15 (fifteen) 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.

SECTION 12.0 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 its most reasonable application:

"Appeal" means a request for a review of the Zoning Administrator/Chief Building Official's (**local administrator**) interpretation of any provision of this ordinance or a request for a variance.

"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.

"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 percent chance of being equalled or exceeded in any given year.

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

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

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

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

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

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

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

"Flood Fringe" is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a 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 Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

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

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

"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 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.

"Overlay District" is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

"Principally Above Ground" means that at least 51 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.

"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.

"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.

"Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

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

"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 all ordinances or parts of ordinances in conflict herewith are hereby repealed.

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

PASSED AND APPROVED this 18th day of July, 2023.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk