

June 20, 2023

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, JUNE 20, 2023

STATE OF NEBRASKA)
)
 COUNTY OF BOX BUTTE) §
)
 CITY OF ALLIANCE)

The Alliance City Council met in a Regular Meeting, June 20, 2023 at 7:00 p.m. in the Alliance Learning Center Community Meeting Room, 1750 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on June 14, 2023. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been provided to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Mayor Jones opened the June 20, 2023 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Jones, Vice Mayor McGhehey and Council Members Mischnick, Andersen, and Mashburn. Also present were City Manager Sorensen, City Attorney Hoelsing, City Treasurer Baker and City Clerk Pitt.

- Mayor Jones read the Open Meetings Act Announcement.
- The Consent Calendar was the first item on the agenda. A motion was made by Councilmen Andersen, which was seconded by Councilman Mischnick to approve the Consent Calendar as follows:

CONSENT CALENDAR – JUNE 20, 2023

Approval: Minutes of the Regular Meeting, June 06, 2023.

Approval: Payroll from June 02, 2023 in the total amount of \$366,238.25.

Approval: Claims against the following funds: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$1,745,421.35.

Approval: Rolland Gene and Patricia Ann Skinner Cemetery Certificate.

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Approval: will approve the amendment to the City Manager's Employee Contract to reflect the \$2,080.00 cost of living increase.

Approval: Resolution 23-45 will approve the Agreement with Aging Office for the Senior Center Facility 212 Yellowstone Ave.

Approval: Resolution No. 23-46 will approve the haying lease agreement with Josh Frerichs for the remaining three years of a five-year lease agreement.

Approval: Resolution No. 23-47 will approve the agreement with NDOT for TripMaster Dispatching Software for the 100% reimbursement of \$48,388.71.

Approval: Resolution No. 23-49 will approve the Water/Sewer Department budget transfer in the total amount of \$20,000 from Capital Outlay #08-52-52-59-950 to CTNSVC #08-52-52-44-479, for the repair of Well 2.

NOTE: City Manager Sorensen and City Treasurer Baker have reviewed these expenditures and to the best of their knowledge confirm that they are within budgeted appropriations to this point in the fiscal year.

Any item listed on the Consent Calendar may, by the request of any single Council Member, be considered as a separate item in the Regular Agenda.

Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

- The next action for Council was to proclaim Saturday, June 24, 2024 as Terry Jensen Day. Terry Jensen was in attendance to receive the proclamation. Councilman Mischnick read the following proclamation:

PROCLAMATION

WHEREAS, we are here today to express special recognition to Terry Jensen and to honor him for his faithful thirty-year career with the City of Alliance Streets Department; and,

WHEREAS, Terry began his career with the City of Alliance on May 18, 1992 as a Street Maintenance Worker for the City of Alliance; and,

WHEREAS, the City of Alliance recognizes the valuable contributions that Terry has made while working with the Streets Department; and,

WHEREAS, the citizens of the City of Alliance, wish to honor and thank Terry Jensen for his 31 years of service to the Streets Department; and,

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NOW, THEREFORE the City Council of Alliance, Nebraska, does hereby proclaim:

Saturday, June 24, 2023 as:

Terry Jensen Day

in the City of Alliance, Nebraska, and we urge all citizens to join me in honoring Terry Jensen by expressing appreciation for his commitment to helping 'Build the Best Hometown in America'.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Alliance to be affixed on this 20th day of June in the year of the Lord Two Thousand Twenty-Three.

- Next on the agenda for Council was Resolution No. 23-49 which will accept and approve the updated City of Alliance Comprehensive Plan. The following information was provided:

[The State of Nebraska requires that cities and counties have an up to date Comprehensive Plan (Plan) or general plan for their communities in order to enforce its building, subdivision, and zoning codes. Plans may also be necessary for certain grant opportunities and the ability to utilize and administer economic development tools. The Plan is meant as a general guide for the City for the next 15-30 years. It is meant to guide capital purchasing, land use, transportation, housing, public works projects, etc. so that large scale decisions are not capricious or self-serving of elected officials, city staff, administrators, and members of the public. The proposed Plan was prepared for the Planning Commission in the fall and winter months which staff did not view as an ideal time to take new pictures for the Plan. Pictures will be updated as staff has the opportunity to do so throughout the summer months.

Chapter 1 - Foundation - This chapter begins the Comprehensive Plan with a brief history of Alliance followed by a summary of what a Comprehensive Plan is. It includes the minimum legal requirements set by the State of Nebraska for a Comprehensive Plan and the process by which this Plan was written. It lists the contents of the Comprehensive Plan by chapter and then shows the results of a community survey. The survey shows citizens priorities as they relate to the City as well as some personal information about the respondent such as pay and home owner status. These survey results have remained similar to those of previous Plans and the assessment in the 1990 Urban Design Plan for Alliance.

Chapter 2 – Public Facilities - This chapter begins with an assessment and recommendations for City buildings. This is followed by the same assessment for City parks and finally utilities. Each facility begins with a brief history followed by its current status, and recommendations for future improvements. This was

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prepared with aid from each facilities' advocate and previous Plan recommendations.

Chapter 3 – Transportation – This chapter begins with an assessment of the existing conditions of the City transportation system including its physical condition and an operational analysis. It introduces Complete Streets to the City Comprehensive Plan for the first time looking at streets using a more holistic approach in how the street right of way is used by multiple forms of transportation. Finally, it provides a long range plan and recommendations for future improvements and maintenance projects.

Chapter 4 – Housing – Chapter 4 is an assessment of housing trends nationally and the current housing conditions in Alliance. It contains statistical information gathered from the U.S. Census Bureau as it relates to housing, wages, and affordability, and compares them with other communities in our area and the State of Nebraska. It provides recommendations for future housing needs in Alliance and references the 2020 Box Butte County Housing Study as an additional guide.

Chapter 5 – Land Use – The Land Use Chapter begins with a brief introduction of the importance of coherent land use management, a description of the different types of land use, and how much of the total City area each land use occupies. The chapter then breaks the City down in to neighborhoods and assesses each neighborhoods strengths, weaknesses, land uses, and makes general recommendations for the long term goals of each neighborhood. This Plan treats the Extraterritorial Zoning Jurisdiction, the area outside corporate limits that Cities are permitted to enforce their building and zoning codes, as its own individual neighborhood. Finally there is an annexation plan with details of each proposed area and a description of the different priority rankings.

Chapter 6 – Sustainability – Chapter 6 finishes the Plan with a brief introduction of how the Plan defines and addresses sustainability. The first is a comparison of measurable indicators of Alliance now versus Alliance in the past. These include census data showing certain cultural, environmental, and economic indicators such as population, homeownership rates, income, commute times, etc. The second is an assessment of the appearance and aesthetics of Alliance. The entrances to the community and other main arterials are mapped, assessed, and general recommendations are made for each. The third and final part is an energy component that assesses current energy utilities, past use trends, comparisons with previous usage, and what future usage may look like.

The City of Alliance Planning Commission held Public Hearings for the proposed Comprehensive Plan on February 14, March 14, April 11, and May 9, 2023. The

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Planning Commission voted to recommend the City Council approve the proposed Comprehensive Plan, after making the following findings of fact:

1. An up to date Comprehensive Plan is required by State Law to enforce the City subdivision, zoning, and building codes.
2. The proposed Comprehensive Plan has been prepared in accordance with State requirements.
3. The current Comprehensive Plan was prepared in 2009 using 2000 Census Data making it essentially 23 years old.
4. The completion of the goals in the proposed Comprehensive Plan are in the best interest of the City and its future.

STAFF RECOMMENDATION: THE CITY COUNCIL APPROVE THE RESOLUTION ADOPTING THE PROPOSED COMPREHENSIVE PLAN OF THE CITY OF ALLIANCE.]

A motion was made by Mayor Jones, seconded by Vice-Mayor McGhehey to approve Resolution No. 23-49 which follows in its entirety:

RESOLUTION NO. 23-49

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

WHEREAS, the City of Alliance, Nebraska has a current Comprehensive Plan dated the Winter of 2009, pursuant to Neb. Rev. Stat. §§ 19-901, 19-903. The City has proposed and received a completely updated "Alliance Comprehensive Plan," attached hereto and incorporated herein by reference as Exhibit A.

WHEREAS, the Alliance Planning Commission, following public hearings, has reviewed and provided a recommendation for the adoption of the Alliance Comprehensive Plan as written, pursuant to Neb. Rev. Stat. § 19-901; and

WHEREAS, the City Council of the City of Alliance, Nebraska, following public hearing, has reviewed the Alliance Comprehensive Plan and is in favor of its adoption;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Alliance, Nebraska that the current Comprehensive Plan of the City of Alliance, Nebraska, dated the Winter of 2009, is repealed and the Alliance Comprehensive Plan attached hereto and incorporated herein by reference as Exhibit A is the adopted as the comprehensive plan of the City of Alliance, Nebraska, pursuant to Neb. Rev. Stat. §§ 19-901, 19-903, effective June 28, 2023.

PASSED and APPROVED on June 20, 2023.

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Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was the Ordinances in conformity with the Comprehensive Plan. The following information was provided for Council's review:

[There are several code amendments proposed as part of the new Comprehensive Plan. Additional amendments have been proposed by staff for clarification purposes and to bring the code into compliance with laws that other governmental entities have changed or passed. The code change summaries in the narrative are separated by chapter and generalized to provide a brief overview of the changes. Specific changes are highlighted in the draft code given to Council for review.

Chapter 101 – The amendments in this chapter add a section stating the purpose of Part II of the Municipal Code, code amendment procedures, and additional definitions primarily as a result of amendments to the health care and flood plain sections of the zoning code. The health care and flood plain amendments are required as numerous changes to the healthcare and floodplain laws at the State and Federal levels have occurred since our code was drafted.

Chapter 105 – The proposed amendments to this chapter allow for the collection of a drawing review fee for projects valued at \$100,000 or more and allow for commercial business owners to perform nonstructural, non-specialized work on their own buildings. In the circumstance where a large project doesn't get constructed but the drawing review was completed, the City would keep a review fee of 10% of the total cost of the permit and refund the rest. If the project is constructed, the 10% review fee would go towards the cost of the permit. The building code already allows this for all projects but staff believes it's only necessary for larger projects where the investment in staff's time and resources is more significant and thus more of a loss.

Chapter 107 – The amendments to the subdivision chapter are the removal of the requirement of drawing building or setback lines on plats; the vacation of plats if replatted more than two times; and additional requirements for administrative subdivisions. Setbacks and building lines change with zoning. If the zoning changes after the plat is approved, the setbacks and building lines shown on the plat may become incorrect. The code adds the requirement of plat vacation if being replatted more than two times. Every replat has to reference the previous plat and after several replats, the legal description becomes long, confusing, and can cause legal and title issues if something is missed. The proposed code would allow for rural administrative subdivisions and the requirement for Public

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Improvement Deferments in certain cases where not all improvements are installed.

Chapter 109 – This chapter is the zoning and land use chapter. The proposed amendments primarily increase the density of residential developments by allowing townhouses, accessory dwelling units, shorter rear setbacks if the lot is adjacent to an alley, and setback reductions if structures on the same lot are fire rated as required by the adopted fire code. It also makes the same changes to the health care land uses that necessitated the definition changes in Chapter 101.

Chapter 111 – The amendments to this chapter are the requirements for accessory dwelling units permitted by Chapter 109. There are also some procedural changes and clarifications requested by staff to help clear up enforcement issues in the code pertaining to fences, parking, and exceptions to setbacks.

Chapter 113 – This chapter is also known as the floodplain ordinance. The amendments proposed are not necessarily required by the Comprehensive Plan but are required by the State and Federal governments to meet their minimum guidelines for the National Flood Insurance Program. The proposed code was sent to the Nebraska Department of Natural Resources and FEMA, and has been approved at both levels.

The City of Alliance Planning Commission met at their regular meeting on April 11, 2023, and held a Public Hearing for the proposed code amendments. The Planning Commission then voted to recommend the City Council approve the code amendments, after making the following findings of fact:

1. The amendments are consistent with the goals of the proposed Comprehensive Plan.
2. The amendments are needed to clarify the changes in healthcare and flood plain administration laws over the past 40 years.
3. The City participating in the National Flood Insurance Program is beneficial for the City of Alliance and thus the amendments to Chapter 113 are necessary.

STAFF RECOMMENDATION: THE CITY COUNCIL APPROVE THE ORDINANCE AMENDING PART II OF THE ALLIANCE MUNICIPAL CODE, TITLED LAND DEVELOPMENT AND PLANNING.]

A motion was made by Councilmen Mashburn, seconded by Councilmen Mischnick to approve the first reading of Ordinance No. 2957, Ordinance No. 2958, Ordinance No. 2959, Ordinance No. 2960, Ordinance No. 2961, Ordinance No. 2962. City Clerk Pitt read the Ordinances by title which follows in its entirety:

Ordinance No. 2957

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AN ORDINANCE ADOPTING SECTION 101-2 OF THE ALLIANCE MUNICIPAL CODE, RENUMBERING SECTIONS OF THE ALLIANCE MUNICIPAL CODE ACCORDINLY; AMENDING PORTIONS OF CHAPTER 101 OF THE ALLIANCE MUNICIPAL CODE, AS RENUMBERED; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1: Section 101-2. Purpose of the City Code is adopted as follows:

“Sec. 101-2. Purpose.

The purpose of Part II of the City of Alliance Municipal Code is to promote the health, safety, morals, and general welfare of the community by regulating the height, number of stories, and size of buildings; regulating and restricting lot coverage, the size of yards, courts, and other open spaces, and density; regulating the location, and use of buildings, structures, lots, and tracts of land for industry, residence, or other purposes; dividing the area into zoning districts; any other purposes stated within each Chapter of this code; and provide for the enforcement thereof.”

SECTION 2: Sections 101-2, 101-3, 101-4, 101-5, and 101-6 of the City Code are renumbered as Section 101-3, 101-4, 101-5, 101-6, and 101-7, respectively.

SECTION 3. Section 101-5. Amendments to Part II of the Alliance Municipal Code, as renumbered in Section 2 of this Ordinance above, is amended as follows:

“Sec. 101-5. Amendments to Part II of the Alliance Municipal Code.

(a) Planning commission. Recommendations for revision or amendment of any portion of Part II of the Alliance Municipal Code, including the zoning ordinance and district map, may be initiated by the planning commission upon its own motion, for final determination by the city council, but only after proper notices and public hearings required by state law are held by each body.

(b) City council. The city council may revise or amend any portion of Part II of the Alliance Municipal Code, including the zoning ordinance and district map, upon its own action, provided such proposed revisions or amendments shall first be submitted to the planning commission for recommendation and report as required by State law, and only after proper notices and public hearings required by state law are held by each body.

(c) Public. Requests for an amendment, revision, or change of any of the rules, regulations, or provisions of the text of Part II of the Alliance Municipal Code, including the zoning ordinance, may be made by any interested person by written letter, duly filed with the City Manager or designee no less than 15 working days before the next regular meeting of the Planning Commission. The applicant’s letter shall detail the proposed code amendment, revision, or change along with reasoning. Amendments to chapters 109 and 111 shall be done according to the procedures set out in chapter 109.

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(d) Notification. For proposed code amendments to Part II, public hearings shall be held by the planning commission and city council. The notice of public hearing shall be published in one issue of a newspaper of general circulation within the city not less than ten days prior to the date of said hearing.

(e) Meeting. Upon the hearing of such proposed code amendment, the planning commission shall make a recommendation to the city council. The city council shall hold a public hearing and act on the proposed amendment after taking the planning commission's recommendation into consideration."

SECTION 4: Sections 101-8 to section 101-20 of the City Code are reserved.

SECTION 5: Section 101-62. A. of the City Code is amended as follows:

"Sec. 101-62. – A.

Accessory building means a subordinate building having a use customarily incidental to and located on the lot occupied by the principal building, or having a use customarily incident to the principal use or conditional use of the property. A building housing an accessory use is considered an integral part of the principal building when it has any part of a wall in common or is under an extension of the main roof, and designed as an integral part of the principal building.

Accessory 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.

Accessory use means the use of a building or land which is customarily incidental to, and located on the same lot, parcel, or tract as the principal use or conditional use.

Activity means the performance of a function or operation which constitutes a use of the land.

Adult theater or adult bookstore means any establishment in which the preponderance of the material offered for viewing, sale, lease, or display emphasizes matters depicting, describing or relating to the following:

- (1) Act of masturbation, sexual intercourse or penetration, or sodomy;
- (2) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
- (3) Purely prurient interests;
- (4) Less than completely or opaquely covered human genitals, pubic regions, buttocks, female breasts below a point above the top of the areola;
- (5) Human genitals in a discernably turgid state, even if covered completely or opaquely;
- (6) Human genitals in a state of stimulation or arousal.

Advertising structure means any structure which supports or is capable of supporting any sign or advertising message as identified in this Code, and may be a single pole or composed of parts joined together in some definite manner.

Agriculture means the employment of the land for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and by the grazing, feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honey bees, and by dairying and the sale of dairy products.

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Agricultural structure for floodplain management purposes shall mean a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Alley means a minor way which is used primarily for utility services and vehicular service access to the back or side of properties otherwise abutting on or adjacent to a street; affording only a secondary means of access to abutting property.

Alteration means any addition, removal, extension, or change in the location of any exterior wall of a principal building or accessory building.

Animal Unit is a term used to describe the relationship of various animals that are being held or fed. The following multipliers are used in determining animal units:

Category	Animal Units
Slaughter steers and heifers	1.0
Cow & calf	1.3
Dairy cattle	1.4
Horse	0.75
Swine	0.4
Sheep	0.4
All fowl	0.05

Apartment means a room or a suite of rooms arranged, intended, or designed for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

Apartment hotel means a building designed for or containing both apartments and individual, furnished guestrooms or rental units utilizing similar booking processes as hotels/motels, under resident supervision, and which maintains an inner lobby through which all tenants must pass to gain access to apartments, rooms, or units.

Apartment house means a building housing more than two apartments, arranged, intended, or designed for the residence of more than two families.

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.

Areas of special flood hazard means the land within a community subject to a one percent or greater chance of flooding in any given year. This land is identified as zone A on the official flood map.

Attention attracting device means a sign or device that flashes, blinks, revolves, rotates, swings, undulates, or otherwise attracts or is designed to attract attention through electronic changes but does not include time and temperature or electronic word message signs.

Automobile means a usually four wheeled automotive vehicle designed for passenger transportation, excluding busses and trucks.

Awning means a structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a position against the building.”

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SECTION 6: Section 101-63. B. of the City Code is amended as follows:

“Sec. 101-63. – B.

Backage road means a road typically running parallel to a highway or expressway that provides access to property adjacent to said highway or expressway from the rear of the property; may also be referred to as a reverse frontage road.

Banner means a sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentations applied to paper, plastic, or fabric of any kind; this does not include flags, emblems, or insignia displayed for noncommercial purposes.

Barber shop means a structure, area, or shop where a barber, as licensed by the Nebraska Board of Barber Examiners, for compensation, cuts and dresses hair, shaves and trims beards, and performs related services allowed to be performed by persons licensed under the Nebraska Board of Barber Examiners.

Barn means an agricultural building used for the storage of farm products or feed, and the housing of farm animals and equipment.

Barrel means a unit of liquid measurement as that term is contemplated and used for licensing purposes under the Nebraska Liquor Control Act, R.R.S. § 53-101 et seq., as amended from time to time.

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

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

Basement means the story below the first story if the finished floor level directly above is not more than six feet above the average adjoining elevation of the finished grade, such space shall be counted as a story for height regulations if subdivided and used for dwelling purposes other than by a custodian employed on the premises.

Bed and breakfast means sleeping accommodations rented on a short term basis, where a morning meal is provided, in a building typically used as a one family dwelling.

Bicycle pathway means that portion of a paved right-of-way, whether within a public street or an exclusive travelway, which has been designed in a prescribed manner for exclusive bicycle use.

Block means a piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, or parks, or a combination thereof, but not alleys. In cases where the platting is incomplete or disconnected, the city manager or designee shall determine the outline of the block.

Boardinghouse means a building other than a hotel, occupied as a single- housekeeping unit, where lodging and/or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

Brewery means any industrial facility that manufactures beer in quantities greater than 20,000 barrels annually for sale off premises or in an accessory retail space, bar, or restaurant located on premises and licensed for sale on premises.

Building means an enclosed structure, anchored in a permanent manner, and having exterior or party walls and a roof, designed for the shelter of persons, animals, chattels, or

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property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building except that two buildings connected by a breezeway shall be deemed one building.

Building line means the horizontal line as measured from any lot line at which a building must be or has been constructed.

Business Improvement District Act of 1979 means the applicable statute governing first class cities and is hereby adopted by reference.

Business office means any office of a recognized profession, such as doctors, lawyers, architects, engineers, real estate brokers, insurance agents, and others, who, through training and licensure, are qualified to perform services of a professional nature, and other offices used primarily for accounting, corresponding, research, editing and other administrative functions of a profit-making or nonprofit organization, but not including banks or other financial institutions.

Business services means establishments engaged in providing services to business offices on a fee or contract basis, including, but not limited to catering services and related food preparation; advertising and public relations; management and consulting services; employment services (including temporary agencies); building security and maintenance services; equipment servicing, rental/leasing and sales; computer and data processing services; communications equipment and services; mailing, photocopying, quick printing and fax services; sale of office supplies; and similar business services, but not including rental, sales or repair of vehicles or heavy equipment.

Butcher shop means a place where livestock (including poultry) are killed and butchered on site and the meat is cured, smoked, packed, or otherwise prepared on site for sale, and some or part of the meat is sold on site at retail; provided, however, that all such operations (including slaughter) shall be performed entirely indoors, live animal delivery shall take place only one day a week, all waste material including manure and renderings shall be cleared within two days of killing, such shop shall not hold live animals for more than 24 hours after delivery, and such shop shall be limited to killing a maximum number of 30 animal units per week (see meat market)."

SECTION 7: Section 101-65. D. of the City Code is amended as follows:

"Sec. 101-65. – D.

Day care center means a facility located within a building, or part of a building that is not used as a dwelling unit, for the care, on a regular basis, during part of a 24-hour day, of children under the age of 16, handicapped, or elderly persons.

Developer means the owner of land proposed to be subdivided or their representatives. Consent shall be required from the legal owner of the premises.

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

Distillery means any industrial facility that manufactures spirits in quantities greater than 10,000 gallons annually for sale off premises or in an accessory retail space, bar, or restaurant located on premises and licensed for sale on premises.

Drainway; see "watercourse."

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Drive-in establishment means any restaurant, financial institution, or product vending enterprise where the patron does not enter and remain within a building during the transaction of business. Food vending establishments where the food is not normally consumed within a building, or where facilities are provided for eating outside a building, shall be included in this definition.

Driveway vision triangle means the triangle formed at the intersection of a private driveway and sidewalk or city right-of-way if there is no sidewalk. It is created by measuring ten feet from the before mentioned intersection along the interior side of the sidewalk or the right-of-way and along the private property side edge of the driveway, and connecting the hypotenuse between these two points.

Dwelling means a building or portion thereof, designed exclusively for permanent residential occupancy, including one-family dwellings, two-family dwellings, multiple dwellings, boarding houses, and manufactured houses, but not hotels, motels, mobile homes, house trailers, or recreational vehicles.

Dwelling, accessory means an attached or detached structure located on the same lot as the principal dwelling unit and used as a one-family dwelling.

Dwelling, multiple family means a building or portion thereof, arranged, intended or designed for occupancy by three or more families, including apartment houses, row houses, townhouses, and apartment hotels.

Dwelling, one-family means a detached building, arranged, intended or designed for occupancy by one family.

Dwelling, two-family means a building arranged, intended, or designed for occupancy by two families.”

SECTION 8: Section 101-67. F. of the City Code is amended as follows:

“Sec. 101-67. – F.

Facility means a structure, building, open area, or other physical contrivance or object.

Family applied to the following districts:

(1) Any R-1 zoned area: One or more persons related by blood, adoption, or marriage, except persons placed with persons in a home licensed by the state department of health and human services, living together and occupying a single housekeeping unit with single kitchen facilities, or a number of persons but not exceeding two who are not related by blood, adoption or marriage, except persons placed with persons in a home licensed by the state department of health and human services, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities.

(2) All zoned areas except R-1, means as follows: One or more persons who are related by blood, adoption, or marriage, except persons placed with persons in a home licensed by the state department of health and human services, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit cost-sharing basis.

Farm/ranch means an area of land containing at least ten contiguous acres which is used for agriculture.

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Feed lot means a lot, yard, corral, building or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter or the sale of products derived from such animals; not including areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze.

Fence means any vertical structure, other than a building or plant material which is for the purpose of obstructing visual observation, or for the purpose of obstructing pedestrian, automotive, or animal movement, or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

Fence; closed means fences constructed in any manner other than an open fence.

Fence; open means split rail or one by four inch board with a maximum of three horizontal rails or boards with no vertical boards except supporting posts, or open metal fencing. Privacy slats or any other fencing equipment that may hinder vision shall be considered a closed fence.

Fence vision triangle means the triangle on a corner lot at the intersection of two streets or avenues. It is created by measuring 25 feet from the intersection along each property line and drawing the hypotenuse between these two points.

Filling station means a facility that sells automobile fuel including, but not limited to, gasoline, diesel, propane, and compressed natural gas. It shall also include charging stations and may be accompanied by convenience food stores.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas.

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

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

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

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

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

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

Floor area means the total of the horizontal area of all floors including basements and cellars, below the roof and within the surfaces of the main walls of principal buildings or accessory buildings or the centerlines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two feet within the roofline of any building or portion thereof without walls.

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

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flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

Frontage means that side of a lot abutting on a street and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Frontage street means any street which is parallel to and adjacent to major streets or highways and provides access to the abutting properties and protection from through traffic.

SECTION 9: Section 101-68. G. of the City Code is amended as follows:

Sec. 101-68. – G.

Garage, commercial means a building or portion thereof, designed or used for storage, sale, or hiring of motor vehicles for commercial purposes.

Garage, community means a building or portion thereof, used in lieu of private garages within a block or portion of a block.

Garage, private means a detached building or a portion of a building, having more than two walls, which is used primarily for the storage of private or pleasure-type motor vehicles by the tenants of the building or buildings on the premises, where no commercial repair work is allowed, no fuel is dispensed, or no loud or odiferous nuisances occur which may disturb neighbor's peaceful enjoyment or other activities which are not otherwise allowed in a residential zoned neighborhood.

Garage, repair means a building or portion thereof, designed or used for the care or repair of vehicles, which is operated for commercial purposes.

Garage, storage means a building or portion thereof, except those defined as private, repair, or community garages providing storage for more than four motor vehicles.

Grade means the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the lot line, or when the lot line is more than five feet from the building, between the building and a line five feet from the building.

Greenhouse means a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants and vegetation for subsequent sale or for other personal enjoyment. See "nursery."

Gross floor area/GFA means the sum of the horizontal areas of all floors of a principal building or buildings on the same lot, measured between exterior faces of walls.

Gross surface area means the total surface area of a sign visible from the public way or area from which the sign is to be viewed and shall include only one sign face when the display faces are perpendicular to the roadway or are designed to be visible from only one side at a time.

Ground-mount solar collector means a solar energy system that is directly installed on specialized solar racking system, which are attached to an anchor in the ground and wired to connect to an adjacent home or building. Ground mount systems may be applicable when insufficient space, structural, and shading issues, or other restrictions prohibit rooftop solar.

Group home means:

- (1) A facility or home for the developmentally disabled where shelter, food, care, advice, counseling, diagnosis, treatment, or related services are provided for a period of more than twenty-four consecutive hours to four or more persons residing at such facility who have developmental disabilities; or,

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(2) A residence, including an office space for shelter employees, providing food, shelter, medical care, legal assistance, personal guidance and other services to persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare and do not require hospital or skilled nursing facility care.”

SECTION 10: Section 101-69. H. of the City Code is amended as follows:

“Sec. 101-69. – H.

Hair salon means a structure, area, or shop where people have their hair cut or styled for compensation by a person licensed by the Nebraska Board of Cosmetology.

Hazardous material means any item or agent not used for ordinary purposes (biological, chemical, radiological, and/or physical), which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors, including: chemicals which are carcinogens, toxic agents, irritants, corrosives, sensitizers; agents which act on the hematopoietic system; agents which damage the lungs, skin, eyes, or mucous membranes; this definition also includes chemicals which are combustible, explosive, flammable, oxidizers, pyrophorics, unstable-reactive or water-reactive; and chemicals which in the course of normal handling, use, or storage may produce or release dusts, gases, fumes, vapors, mists or smoke which may have any of the previously mentioned characteristics.

Health care practitioner facility means the residence, office, or clinic of a practitioner or group of practitioners credentialed under the Uniform Credentialing Act, or any distinct part of such residence, office, or clinic; including eye and dental clinics.

Health clinic means a facility where advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four consecutive hours to persons not residing or confined at such facility. Health clinic includes, but is not limited to, an ambulatory surgical center or a public health clinic; however, health clinic does not include (a) a health care practitioner facility (i) unless such facility is an ambulatory surgical center, (ii) unless ten or more abortions, as defined in subdivision (1) of Nebraska State Statute 28-326, are performed during any one calendar week at such facility, or (iii) unless hemodialysis or labor and delivery services are provided at such facility, (b) a facility which provides only routine health screenings, health education, or immunizations, or (c) a PACE center.

Height of building or structure means the vertical distance measured from the highest of the following three levels:

- (1) From the street curb level if the structure sets on the street line to the highest ridge row.
- (2) From the established or mean street grade in case the curb has not been constructed to the highest ridge row if the structure sets on the street line.
- (3) From the average finished ground level adjoining the building if it sets back from the street line; to the level of the highest point of the roof beams of flat roofs or roofs inclining not more than one-inch to the foot, or to the highest ridge row for other roofs.

Height of yard or court means the vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.

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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:

- (1) 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;
- (2) 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;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

Home occupation means any occupation, activity, or accessory use of a nonresidential nature conducted in a dwelling in accordance with chapter 111, division 4 of the Alliance Municipal Code.

Hospital means a facility where diagnosis, treatment, medical care, obstetrical care, nursing care, or related services are provided on an outpatient basis or on an inpatient basis for a period of more than twenty-four consecutive hours to persons who have an illness, injury, or deformity or to aged or infirm persons requiring or receiving convalescent care; including a facility or part of a facility which provides space for a general acute hospital, a rehabilitation hospital, a long-term care hospital, a critical access hospital, or a psychiatric or mental hospital. Hospital does not include a health care practitioner facility in which persons do not receive care or treatment for a period of more than twenty-four consecutive hours.

Hotel/motel means a building or group of buildings containing one or more sleeping rooms to be rented on a short term basis, primarily to the motoring public, together with parking area, recreation space, vending machines, restaurants, clubs, or other related accessory uses including meeting rooms and banquet facilities.”

SECTION 11: Section 101-74. M. of the City Code is amended as follows:

“Sec. 101-74. – M.

Mansard means a roof projection that has an angle of more than 45 degrees and is supported by the building wall.

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements

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and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq.

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

Manufactured home site means a plot of ground within a mobile home park designed for the accommodation of one mobile home, complete with a pad, all utility hookups, and sufficient off-street parking.

Manufacturing means the mechanical or chemical transformation of materials or substances into new products, whether finished or semi-finished, including the assembling of component parts, the creation of products, the blending of materials, usually for the wholesale market, rather than retail sale.

Marquee means a permanent roof-like structure extending from the wall of a building but not actually a part of the building itself and is generally projecting on a horizontal plane.

Meat market means a retail shop where meat is sold by a butcher or meat cutter, but where no slaughtering or killing takes place (see butcher shop).

Mental health substance use treatment center means a facility where shelter, food, counseling, supervision, diagnosis, treatment, care, rehabilitation, assessment, or related services professionally directed are provided for a period of more than twenty-four consecutive hours to persons residing at such facility who have a mental illness or substance use disorder or both, with the intention of reducing or ameliorating the disorder or disorders or the effects of the disorder or disorders.

Microbrewery means any industrial facility that manufactures beer in quantities up to 20,000 barrels annually for sale off premises or in an accessory retail space, bar, or restaurant located on premises and licensed for sale on premises. Provided, however, at no time shall the accessory use of a microbrewery include growing or harvesting barley or other grain on premises.

Microdistillery means any industrial facility that manufactures spirits in quantities up to 10,000 gallons annually for sale off premises or in an accessory retail space, bar, or restaurant located on premises and licensed for sale on premises. Provided, however, at no time shall the use or accessory use of a microdistillery include growing or harvesting grains, vegetables, or other mash product on premises.

Microwinery means any industrial facility that manufactures wine in quantities up to 30,000 gallons annually for sale off premises or in an accessory retail space, bar, or restaurant located on premises and licensed for sale on premises. Provided, however, at no time shall the use or accessory use in a microwinery include growing or harvesting grapes, fruits, or vegetables.

Mobile home; see manufactured home.

Modular home means any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units, containing facilities for no more than one family, not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities and contains a seal issued by the department of health and human services regulation and licensure prior to May 1, 1998, or by the public service commission on or after May 1, 1998, to be displayed on the modular housing unit as determined by the commission to evidence compliance with State standards.

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Municipal building means any building or facility used by the city including, but not limited to, utility facilities, well houses, treatment plants, water towers, warehouses, storage buildings, storage garages, offices, treatment plants, auditoriums, and substations. In the name of promoting neighborhood congruity, city staff and council should use their best judgment to make any and all municipal buildings match the general character of the neighborhood in which it is being constructed.”

SECTION 12: Section 101-75. N. of the City Code is amended as follows:

“Sec. 101-75. – N.

Net floor area/NFA means the total floor area of a building that is designed for tenant occupancy or that is accessible to customers, clients of the general public, excluding storage areas, equipment rooms, food preparation areas and common areas such as halls, corridors, stairwells, elevator shafts, restrooms, interior vehicular parking and loading areas, and similar common areas, expressed in square feet and measured from the centerline of joint partitions and exteriors of outside walls.

New construction or newly constructed means any structure for which the "start of construction" commenced on or after the effective date of the passage of any regulation in part II of the Alliance Municipal Code and includes any subsequent improvements to such structures.

Nonconforming use, building, or yard means a use, building, or yard, which does not, by reason of design, use, or dimensions, conform to the regulations of the district in which it is situated.

Nursery means land or greenhouses used to raise flowers, shrubs, and plants for sale. See “greenhouse.”

Nursing home means any structure used or occupied by persons recovering from illness or injury, or suffering from infirmities of old age.”

SECTION 13: Section 101-76. O. of the City Code is amended as follows:

“Sec. 101-76. – O.

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

Off-site means any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Office building means a building designed for or used as the offices of professional, commercial, industrial, religious, institutional, public or semi-public persons or organizations, provided no goods, wares or merchandise shall be prepared or sold on any premises except that a

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portion of an office building may be occupied and used as a drug store, barbershop, cosmetologist shop, cigar stand, or newsstand, when such uses are located entirely within the building with no entrance from the street.

One hundred year flood means the condition of flooding having a one percent chance of annual occurrence.

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

Owner means any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.”

SECTION 14: Section 101-77. P of the City Code is amended as follows:

“Sec. 101-77. – P.

Parking lot means an area consisting of two or more off street parking spaces, including driveways and maneuvering space, with access to a street or alley and permitting ingress and egress for a vehicle.

Parking lot improvements means any upgrades, alterations, additions, or reconstruction made to an off-street parking lot, or private drives leading thereto, including hard surface paving of existing rock or gravel lots, drainage, curbing, digging, compacting, installation of additional parking spaces, lighting, or landscaping.

Parking lot maintenance means the upkeep of any off-street parking lot including scraping, repacking, bringing in more gravel or rock, chip sealing, and landscaping. The term "parking lot maintenance" may also include mill and overlaying, sealing, painting, or sweeping of hard surfaced lots.

Parking space, off-street means a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

Patio means a facility the floor of which is typically constructed out of concrete or paving stones and is located at ground level.

Pavilion means a detached structure such as a gazebo or pergola.

Pedestrian way means a right-of-way, dedicated or otherwise assigned to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Permitted use means a principal use of a property allowed by right.

Person means any individual, firm, partnership, association, corporation, company or organization of any kind.

Place means an open, unoccupied space, other than a street or alley, permanently established or dedicated as the principal means of access to property abutting thereon.

Planned unit development (PUD) means a lot, block, or combination of each, controlled by one or more owners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or other uses, or any combination of the foregoing. The plan may propose the unique development, rehabilitation, or redevelopment of an existing area or tract not adequately recognized by the terms of other zoning regulations. The plan shall not have a substantially adverse effect upon the character of the area or upon adjacent property or values in the area.

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Planning commission means the city planning commission.

Plat; final means a complete and exact subdivision drawing, prepared for official recording as required by statute, to define property and lot boundaries, easements, streets, and other improvements, and including the dedication of property for public use where required.

Plat; preliminary means a plan, drawn to scale, indicating prominent existing features of a tract and its surroundings and the general street and lot layout of the proposed subdivision and its relationship to the surrounding area.

Pole-mount solar system means a solar energy system that is directly installed on specialized solar racking systems, which are attached to poles anchored and firmly affixed to a concrete foundation system in the ground, and wired underground to an attachment point at the buildings meter. Ground mount and pole mount differ in that pole mounted systems are elevated from the ground.

Porch; enclosed means a roofed area enclosed by windows, attached to or part of and with direct access to or from a building. A porch is a room if the enclosed space is heated or air conditioned, and/or the percentage of window to wall area is less than 50 percent.

Porch; open means an unroofed, unenclosed area attached to or part of and with direct access to or from a building.

Porch; unenclosed means a roofed open area, attached to or part of and with direct access to or from a building, which may be screened.

Post-FIRM structure means a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated July 16, 1987, whichever is later.

Pre-FIRM structure means a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated July 16, 1987, whichever is later.

Primary school means a private institution or an accredited public institution, having regular sessions and offering primary instruction customarily between grades Kindergarten through 5.

Principal building means a main building or other facility which is designed for or occupied by a principal use.

Principal use means the primary or predominant use to which a property is devoted and to which all other uses are an accessory use.

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

Pub means any restaurant or hotel which manufactures a maximum of 20,000 barrels of beer annually, 30,000 gallons of wine annually, or 10,000 gallons of spirits annually, as an accessory use on the same premises which accessory use may not occupy more than 50 percent of the commercial floor area. Provided, however, at no time shall the accessory use of a pub include growing or harvesting grapes, fruits, vegetables, barley or other grain on premises."

SECTION 15: Section 101-79. R of the City Code is amended as follows:

"Sec. 101-79. – R.

Recreation facility means a building or facility owned by the local jurisdiction primarily used for the enjoyment and relaxation of its residents.

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

Regulatory flood elevation means the base flood elevation (BFE) plus a freeboard factor as specified in chapter 113 of this code.

Retail sales means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, but not including the manufacturing or processing of any products.

Right-of-way means the land opened, reserved, or dedicated for a street, highway, walk, drainage, utilities, or other public purpose.

Roof-mount solar system means a solar energy system consisting of solar panels that are installed directly on the roof. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage.

Row house means a row of houses joined by common sidewalls.

Rubbish means all putrescible solid wastes from normal household or living conditions, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin, wood scraps, cans, yard clippings, grass, leaves, tree branches, clothing or litter of any kind; however, not including ashes.”

SECTION 16: Section 101-80. S of the City Code is amended as follows:

“Sec. 101-80. – S.

Sanitary landfill means a type of operation in which garbage and/or refuse is deposited by a plan on a specific portion of land, in accordance with regulations of the Nebraska Department of Environmental Quality.

Satellite earth station means an earth station antenna two meters or less in diameter.

School means a private institution or an accredited public institution, having regular sessions and offering primary and/or secondary instruction, or associate, bachelor, or higher degrees in the several branches of learning, which may include as accessory uses, stadiums and dormitories.

Secondary school means a private institution or an accredited public institution, having regular sessions and offering secondary instruction customarily between grades six through 12.

Setback means the minimum horizontal distance between the lot line and the building line of a structure or any projection thereof.

Shed means a simple roofed structure used as a shelter for animals, storage, or a workshop; but not vehicles.

Shipping container means any container, which may otherwise be known as a container, freight container, ISO container, shipping container, hi-cube container, box, sea container, or container van, designed to store and move materials and products across various modes of the intermodal freight transportation system.

Sign means every device containing any identification, description, illustration, emblem, painting, banner, pennant or placard, illuminated or nonilluminated, which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or information.

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Sign; A-frame or sandwich means a portable sign which may not exceed 30 inches in width and 54 inches in height, which may be displayed between the hours of sunrise and sunset, and which may be placed in a manner as not to impede pedestrian or vehicular traffic.

Sign; agricultural product means a sign displayed on any farm or ranch by the owner or other operator for the purpose of identifying such farm or ranch or advertising the products thereon.

Sign; billboard or poster board means a sign mounted on a semi-permanent structure and usually depicting information not directly related to the property upon which it is placed, and generally referred to as outdoor advertising sign.

Sign contractor means a person, firm, individual, corporation or business engaged in the erection or repair of signs and licensed with the City as such.

Sign; detached means a freestanding sign which is part of a completely self-supporting structure not including mobile signs. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or other structure whether portable or stationary.

Sign; directional means a sign, providing no commercial message of any kind, which provides direction or instruction to guide persons to facilities to serve the public, including but not limited to those signs identifying restrooms, public telephones, public parks, museums, hospitals, auto parking areas and similar facilities.

Sign; face mounted means a sign which is erected or placed in the same manner as the term wall sign.

Sign; home occupation means a non-illuminated sign allowed in association with a permitted home occupation conducted on the premises within a dwelling occupied by the operator of the business.

Sign; illuminated means a sign which uses an artificial source of light in connection with the display of such sign. Artificial light sources include:

- (1) Bare bulb: The illumination of signs using unshielded bulbs.
- (2) Direct illumination: The illumination of signs through flood lights whose luminous surface is visible to the normally located observer.
- (3) Flame: The use of open flame or torches.
- (4) Flashing: The use of an intermittent light source, including the illusion of intermittence through animation or other external light sources. Electronic information signs are excluded from this definition, except for any flashing mode of these signs.
- (5) Indirect: The use of light source whose luminous surface is not visible to the normally located observer.
- (6) Internal: The use of a light source concealed or contained within the sign, and visible by shining through a translucent surface.
- (7) Neon or gas tube: The use of a light source supplied by passing electricity through a tube containing neon or other gas, bent to form letters, symbols and other shapes.

Sign; marquee means a sign attached flat against or suspended under or over the marquee or canopy of a building, but extending downward less than 12 inches therefrom.

Sign; nonconforming means a sign which was not in complete compliance with all existing laws and regulations prior to the time of adoption of these regulations and which does not adhere to one or more of the provisions of this Code.

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Sign; off site means a sign which directs attention to a business, profession, activity, commodity, service or entertainment other than one sold, conducted, or offered upon the site or premises where such sign is located. Also referred to as off-premises sign.

Sign; on-site means a sign which directs attention to a business, profession, activity, commodity, service, entertainment, or attraction sold, conducted or offered on the same site where such sign is located. Also referred to as on-premises sign.

Sign permit means authorization issued by the city to an applicant to erect and maintain a conforming sign. The term "permit" may include an initial construction permit or electrical permit as required by Municipal Code and the state.

Sign; portable means a sign not permanently affixed to the ground, building, or other permanent structure, which may be moved from place to place. The term "portable sign" includes what is commonly called swinger, A-frame, sandwich, wheeled, trailer mounted, or freestanding signs of a temporary nature.

Sign; projecting means a sign which is affixed to a building or wall and extends beyond the wall line of such building or wall at a perpendicular angle from the building or wall on which it is mounted.

Sign; real estate means a sign used to offer for sale, lease or rent the premises upon which the sign is affixed.

Sign; roof means a sign erected in whole or part upon, against, or directly above the roof or parapet wall of a building.

Sign; wall means a sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located parallel to such exterior of the building wall to which the sign is attached or supported. Wall sign shall also include any signs as include within these regulations, which may be painted on the wall of a building or structure.

Sign vision triangle means the triangle on a corner lot at the intersection of two streets or avenues. It is created by measuring 25 feet from the intersection along each property line and drawing the hypotenuse between these two points.

Solar collector means a solar PV cell, panel, array, or solar thermal collector device that relies on solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar energy collector facility (commercial) means a facility housing one or more solar energy systems for the commercial sale of energy created thereon.

Solar energy system means a system capable of collecting and converting solar radiation into heat, mechanical, or electrical energy and transfer these forms of energy by a separate apparatus to storage or to the point of use including, but not limited to, water heating, space heating or cooling, electricity generation, or mechanical energy generation.

Solar glare means the potential for solar panels to reflect sunlight with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Solar panel means a device for the direct conversion of sunlight into usable solar energy.

Solar ready means the concept of planning a building, subdivision, or development with the purpose of enabling the future use of solar energy conversion systems.

Spa means a commercial establishment offering health and beauty treatment through such means as steam baths, exercise equipment, and massage.

Special flood hazard area (SFHA) means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

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Square footage means measurement determined from the dimensions on a plot plan or site plan which shall encompass the structure and/or property. Such dimensions for purposes of determining square footage of structures shall be from the exterior surface of outside walls.

Stable; private means an accessory building for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

Stable; public means a stable other than a private stable or riding stable as defined herein.

Stable; riding means a structure in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire or sale.

Start of construction means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the building permit date. "Start of construction" also includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the building 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.

Storage building means a one-story, detached accessory building used for tool sheds, playhouses, residential greenhouses, and other similar uses but not including vehicle parking or vehicle storage. (See garage; private.).

Story means a portion of a building between the surface of any floor and the surface of the floor next above it, provided that the following shall not be deemed a story:

- (1) A basement or cellar if the finished floor level directly above is not more than six feet above the average adjoining elevation of finished grade.
- (2) An attic or similar space under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such space.

Street means the entire width between property lines of every thoroughfare or right-of-way dedicated to the use of the public as a matter of right for purposes of primary access, travel, and transportation.

Street; collector means a street which in addition to serving abutting properties, collects local traffic from streets, connects such traffic with community facilities and commercial centers and carries local traffic to a higher arterial street system.

Street; commercial means a street used to provide access to abutting commercial properties.

Street; local means a street used principally to provide access service to abutting residential and local business properties.

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Street; major arterial means a street which provides continuous service through municipalities for long-distance rural travel. Major arterial streets are used to transport products into and out of municipalities.

Street; other arterial means a street which interconnects major areas of activity within a municipality such as shopping centers, the central business district and the like.

Street pavement means the wearing or exposed hard/fixed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.

Street; public means a strip of land, including the entire right-of-way, intended primarily as the principal means of vehicular and pedestrian access to abutting property which may also be used to provide space for public utilities, and sidewalks, and which is dedicated or deeded to the public for the uses described herein.

Street right-of-way means the area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

Street line means the dividing line between the dedicated street right-of-way and the abutting property line.

Structural alterations means any alteration involving a change in or addition to the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means any facility which is constructed or erected, and which is located on the ground or is attached to something having location on the ground.

Subdivider means a person, firm, or corporation undertaking the subdividing or the resubdividing of a lot, tract, or parcel of land into two or more lots, or other divisions of land for the purpose of transfer of ownership or development, whether immediate or future including all changes in street or lot lines.

Subdivision means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or any building or lot development, except that the division of land shall not be considered to be a subdivision when the smallest parcel created is more than ten acres in area.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure when the cost of such structure as completed 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."

Surface material means:

- (1) The term "hard surface" means an all-weather surface consisting of asphalt, concrete, paving rock, or brick.

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- (2) The term "gravel" means loose fragments of rock or pebbles.
- (3) The term "dirt" means unsurfaced area free of vegetation without gravel."

SECTION 18: Section 101-81. T. of the City Code is amended as follows:

"Sec. 101-81. – T.

Temporary sign means a sign, banner, valance or advertising display constructed of cloth, canvas, cardboard, light fabric, wallboard, or other light materials, with or without a frame, intended to be displayed for only a limited or specific period of time or event.

Terrace means a level, landscaped and/or surfaced area directly adjacent to a principal building at or within three feet of the finished grade and not covered by a permanent roof.

Theater means an establishment, other than an adult theater, inside a completely enclosed building, devoted to showing movies and/or live dramatic or musical performances.

Tiny house means a dwelling that is 400ft² or less in ground floor area or excluding lofts.

Townhouse means an arrangement of single-family dwelling units, joined by common walls on not more than two sides, with the uppermost story being a portion of the same dwelling located directly beneath at the grade of the first floor area, and having exclusive individual ownership and occupancy rights of each dwelling unit, including, but not limited to the land area directly beneath such dwelling unit.

Training center means a facility used on a regular basis by a business, public agency, or nonprofit organization to provide training or retraining in specialized vocational or trade skills for employed, under-employed or unemployed clients, provided that such training does not violate any provisions of the city code.

Truck means motor vehicles classified as a Class 6, Class 7, or Class 8 vehicle under 49 CFR § 565.15(b)-Table II.

SECTION 19: Section 101-83. V. of the City Code is amended as follows:

"Sec. 101-83. - V.

Variance means relief from a variation of the provisions of these regulations, other than land use regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter in the powers and duties of the board of adjustment and as cited throughout Part II of the alliance municipal code.

Vehicle means a machine propelled by power other than human or livestock power designed to travel along the ground by use of wheels, treads, runners, or slides to transport persons or property, or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, implement, buggy, and wagon.

Vehicle storage means the parking or storing of any vehicle for a period longer than permitted on City streets.

SECTION 20: Section 101-84. W. of the City Code is amended as follows:

"Sec. 101-84. - W.

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

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Wine means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.

Winery means any industrial facility that manufactures wine in quantities greater than 30,000 gallons annually for sale off premises or in an accessory retail space, bar, or restaurant located on premises if licensed for sale on premises.

SECTION 21. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 22. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this day of _____, 2023.

Ordinance No. 2958

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 105 OF THE ALLIANCE MUNICIPAL CODE; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1: Section 105-221. Construction permits of the City Code is amended as follows:

“Sec. 105-221. - Construction permits.

- (a) Permit required. The city manager or designee shall have the power to enforce the provisions of this article. No building or other structure shall be erected, constructed, reconstructed, nor shall it be altered, nor shall any plumbing, mechanical, or any work requiring a permit be conducted without first obtaining a permit from the city manager or designee issued in accordance with the terms of this Code.
- (b) Application. Applications for permits shall be filed with the city manager or designee upon forms prescribed. There shall be a separate application and permit for each building or structure except accessory buildings, which may be included in the permit for the principal building when construction is simultaneous.
- (c) Review. The city manager or designee shall act within the provisions of this article upon all applications for permits, and the same shall be approved or denied not later than the fifth business day succeeding the day of filing. In the event of refusal to issue a permit upon an application, as herein provided, the applicant may submit an appeal to the board of adjustment.
- (d) License required. No permit shall be issued to any person to do or cause to be done any work requiring a permit as identified by the Alliance Municipal Code, except to a person who is the holder of the appropriate license as issued by the city, unless otherwise provided for in City Code or as excepted as follows:

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- (1) Residential structures: Any permit may be issued to any unlicensed person to do any work regulated by this Code in a one-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings, in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters, and that the same are occupied by or proposed to be occupied by said owner, provided, that said owner shall personally purchase all material and perform the labor.
- (2) Non-residential structures: The requirement to be licensed as a building contractor in accordance with this code shall not be required of the owner of any non-residential structure if activities are limited to the hiring and coordination of licensed contractors and subcontractors, and building construction activities; however, the owner shall not be permitted to perform any mechanical, plumbing, gas pipe fitting, structural, or specialty work without being licensed as a contractor in accordance with this Code. The owner shall be required to sign a statement acknowledging that they agree to follow all adopted codes, submit all required drawings, obtain all necessary permits, call for inspections, and that a failure to do so may result in the issuance of a stop work order, refusal of the city to issue a certificate of occupancy upon completion, condemnation of the structure, and/or disconnection of utilities.
- (3) The City of Alliance and its employees shall not be required to become licensed contractors to obtain any permit or perform any work related to official City business except as may be required by State Law or the City Manager.”

SECTION 2. Section 105-222. Fees is amended as follows:

“Sec. 105-222. - Fees.

- (a) Fee required. For each permit issued there shall be charged and collected from the applicant, a fee, in accordance with a schedule established by the city council.
- (b) Drawing review fee. A nonrefundable drawing review fee in the amount of 10 percent of the total permit fee shall be paid when drawings are submitted for staff review on projects with an estimated value greater than or equal to \$100,000. The drawing review fee shall be applied towards the building permit fee upon the issuance of a permit.
- (c) Refund. The city manager or designee shall authorize the refunding of fees as follows:
 - (1) The full amount of any fee paid hereunder which was erroneously paid or collected.
 - (2) Not more than 90 percent of the permit fee paid when no work has been done under a permit issued in accordance with this Code. The city shall retain the 10 percent drawing review fee.
- (d) No-permit fee. Any person, contractor, or company found to be habitually performing work for which a permit is required without first obtaining said permit, may be charged a fee, as established by the city council, in addition to the permit fee. This section is not to be interpreted as requiring a no permit fee the first time a person or contractor fails to comply with the requirements of this Code, but as a means of controlling the practice of starting or performing work without first obtaining a permit.
- (e) Reinspection fee. A reinspection fee set by the city council may be assessed for each inspection or reinspection when such portion of work for which the inspection is called for is not complete or when corrections called for on previously inspector work are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to

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comply with the requirements of this Code, but as a means of controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.”

SECTION 3. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 4. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this day of _____, 2023.

Ordinance No. 2959

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 107 OF THE ALLIANCE MUNICIPAL CODE; ADOPTING SECTION 107-148 OF THE ALLIANCE MUNICIPAL CODE, RENUMBERING PORTIONS OF CHAPTER 107 OF THE ALLIANCE MUNICIPAL CODE ACCORDINGLY; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1: Section 107-82. Final plat requirements of the City Code is amended as follows:

“Sec. 107-82. - Final plat requirements.

- (a) The final plat shall be prepared by a surveyor licensed by the state or an engineer licensed by the state working with data collected by a licensed surveyor.
- (b) The final plat prepared for recording purposes shall be drawn at a scale of one inch per 100 feet or at a scale that would otherwise allow said plat to be easily read and reproduced.
- (c) Plats shall be a minimum of eight and one-half inches by 14 inches but no more than 24 inches by 36 inches. If more than two sheets are required, an index map showing the entire development shall be shown on each sheet.
- (d) The name of the subdivision shall be clearly shown.
- (e) Descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions of second-order-surveying accuracy. All calculations shall be furnished showing bearings and distances of all boundary lines and lot lines and the square foot area of each lot.
- (f) Location of boundaries shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments.
- (g) Location of lots, streets, public highways, alleys, parks, and other features with accurate dimensions in feet and decimals of feet, with the length and radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.

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- (h) Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block.
- (i) The exact locations, widths, and names of all streets to be dedicated.
- (j) Locations and width of all easements to be dedicated and their designated purpose.
- (k) Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
- (l) The drawing of building lines and setbacks on plats is optional; however, if present, they shall be accompanied by a statement on the plat acknowledging building lines and setbacks drawn on the plat may change based on future zoning district changes.
- (m) Name and address of developer, surveyor making the plat, and the owners of record at the time of submittal, plus any lien or mortgage holders of record at the time of submittal.
- (n) Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.
- (o) Statement dedicating all easements, lots or tracts, streets, and other public property, properly signed and acknowledged by appropriate persons, surveyors, certification, and other language as follows:

- (1) Legal description. An accurate legal description of the property being subdivided.
- (2) Dedication. The undersigned owners, mortgage, and/or lien holders of the property described herein have the same to be subdivided in the manner shown on this plat and said property shall hereafter be known as NAME OF SUBDIVISION. It shall be sufficient description of the lots on this plat to hereafter designate the same by the number appearing near the center of the lot followed by the block number appearing near the center of the respective blocks followed by the words: NAME OF SUBDIVISION.

An easement or license is hereby granted to the city to locate, construct, and maintain, and to authorize the location, construction, maintenance, and use of conduits, for all and any purpose, water, gas, and sewer mains, poles, wires, anchors, and appurtenances thereto, or any or all of them upon, under and along the strips of land outlined on this plat and designated "utility easement" or "U.E."

A "drainage easement" or "D.E." or license is also hereby granted to the city to locate, construct, and maintain, and to authorize the location, construction maintenance, and use of surface drainage ways and installations, and underground drainage conduits and appurtenances for drainage purposes on, under and along the strips of land outlined on this plat designated "drainage easement."

Streets shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

(Optional) Building and/or setback lines are hereby established as shown on this plat and no building front shall be built or otherwise located in front of or behind this line.

In testimony whereof, the undersigned have hereunto set their hands this ___ day of _____, 20 ____.

Property Owner

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Property Owner

Lien or Mortgage Holder

County of Box Butte)
)
State of Nebraska)

ss.

On this ___ day of _____, 20___ before me personally appeared the above persons, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said county and state the day and year last written above.

Notary Public

My Commission expires:

The foregoing plat was approved by the Planning Commission of the City of Alliance, Nebraska this ___ day of _____, 20 ___.

Planning Commission Chair.

The foregoing plat and dedication was approved and accepted by the City Council of the City of Alliance, Nebraska, this ___ day of _____, 20 ___.

Ordinance Number

Mayor

City Clerk

SECTION 2. Section 107-101. Limitations is amended as follows:

“Sec. 107-101 Limitations.

The city manager may approve further subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way

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or easements is involved, and such subdivision complies with this Code's requirements concerning minimum areas and dimensions of such lots and blocks. This includes the authority to approve the combining of existing lots where such combination of lots fits the requirements of the municipal code. The City Manager may approve an administrative subdivision where all public improvements are not installed in cases such as rural subdivisions or in other circumstances the City Manager sees as beneficial and may require an infrastructure deferment agreement in such situations.”

SECTION 3. Section 107-148. Replat limitations is adopted as follows:

“Sec. 107-148. - Replat Limitations.

A platted subdivision, addition, tract, lot, block, or any portion thereof, shall not be replatted more than twice before vacating the original plat, replats, and/or portions thereof; provided, however, that if such addition, tract, lot, or block as set forth in the original plat is no longer under common ownership, only the portion of the plat being replatted needs to be vacated.”

SECTION 4. Sections 107-148, 107-149, and 107-150, of the City Code are renumbered as Section 107-149, 107-150, and 107-151, respectively.

SECTION 5. Sections 107-152 to section 107-160 of the City Code are reserved.

SECTION 6. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 7. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this day of _____, 2023.

Ordinance No. 2960

AN ORDINANCE REPEALING SECTION 109-48 OF THE ALLIANCE MUNICIPAL CODE; RENUMBERING SECTIONS OF CHAPTER 109 OF THE ALLIANCE MUNICIPAL CODE; AMENDING PORTIONS OF CHAPTER 109 OF THE ALLIANCE MUNICIPAL CODE, AS RENUMBERED; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1: Section 109-48. – R-5, Mobile Home Residential District of the City Code is repealed in its entirety.

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SECTION 2: Sections 109-49, 109-50, 109-51, 109-52, 109-53, 109-54, 109-55, 109-56, and 109-57 of the City Code are renumbered to Sections 109-48, 109-49, 109-50, 109-51, 109-52, 109-53, 109-54, 109-55, and 109-56 of the City Code, respectively.

SECTION 3: Attached hereto and incorporated herein by reference is Exhibit A. Exhibit A includes the following amended sections of Chapter 109 of the City Code, as renumbered according to Section 2 of this Ordinance above: Sections 109-6, 109-21, 109-23, 109-41, 109-42, 109-43, 109-44, 109-45, 109-46, 109-47, 109-48, 109-49, 109-50, 109-51, 109-52, 109-53, and 109-54. Those sections of the City Code are repealed in their entirety and replaced with the sections as set forth in the attached Exhibit A.

SECTION 4: Section 109-55 and 109-56 of the City Code, as renumbered according to Section 2 of this Ordinance above, are not amended except to the extent of their renumbering.

SECTION 5. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 6. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this day of _____, 2023.

Ordinance No. 2961

AN ORDINANCE ADOPTING SECTIONS 111-21 THROUGH 111-23 OF THE ALLIANCE MUNICIPAL CODE; AMENDING OTHER PORTIONS OF CHAPTER 111 OF THE ALLIANCE MUNICIPAL CODE; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1: Sections 111-21 through 111-23 of the City Code are adopted as follows:

“Sec. 111-21. Purpose.

The purpose of this Code is to provide for the development of one-family dwelling units that are accessory to an existing dwelling structure on the same lot. This Code protects the safety, convenience, and welfare of adjacent and surrounding land uses through appropriate zoning and land use control.

Sec. 111-22. Applicability.

This Code shall apply to all newly constructed accessory dwelling units as well as any improvements thereto. Existing accessory dwelling units shall not be required to meet this Code until such time as they are reconstructed or reconfigured unless such dwelling was an illegal nonconforming use at the time of the adoption of this Code.

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Sec. 111-23. General Requirements.

The following criteria shall be considered the minimum requirements for accessory dwelling units:

- (a) It shall be constructed using the same general design guidelines for one-family housing found in Section 111-162 except as permitted in the R-4 zoning district.
- (b) It shall not exceed a total square footage that is the lesser of 80% of the footprint of the principal residence, or 800 square feet.
- (c) The owner of the lot is required to live on the property for a minimum of one year but may reside in either dwelling.
- (d) The accessory dwelling shall share utility connections with the main building unless it is found advantageous by the City Manager or designee to permit separate service connections.
- (e) Detached accessory dwellings shall be no taller than the principal dwelling structure, or 18 feet, whichever is greater except that detached garages with an accessory dwelling on the second story shall be permitted to be 26 feet in height.
- (f) The maximum lot coverage on lots with an accessory dwelling unit shall be increased to 50%.
- (g) Detached accessory dwellings shall follow the same setback and building separation requirements as other detached accessory structures.
- (h) One off street parking space is required for the accessory dwelling in addition to the required off street parking for the principal dwelling structure.
- (i) The property shall be subject to a deed restriction stating that the accessory dwelling shall not be sold separate from the main building and that the lot may not be split unless such lot meets the minimum requirements of the subdivision code.”

SECTION 2. Sections 111-24 through 111-40 of the City Code are reserved.

SECTION 3. Section 111-42. Process of the City Code is amended as follows:

“Sec. 111-42 - Process.

“The administrative process of an AEDS shall be the same as that of a final plat. The application and fee for the AEDS shall be accompanied by a survey of the proposed tract prepared by a licensed surveyor, a site plan showing utility access and ingress/egress access to a public right of way, including the necessary transportation and utility requirements of this code, and an agreement signed by the property owner of the AEDS and the owner of the remaining minimum 80 acre tract. The ordinance approving the AEDS, a survey of the AEDS tract, and the agreement signed by the property owner of the AEDS and the owner of the remaining minimum 80 acre tract, shall be filed at the Box Butte County Courthouse. Such agreement shall act to bind any subsequent owners of both tracts to the requirements of this Code”

SECTION 4. Section 111-122. Residential and light commercial requirements is amended as follows:

“Sec. 111-122. – Residential and light commercial requirements.

In C-0, C-1, and in all residential zoning districts, no fence shall be erected, constructed, reconstructed, or moved except those which follow these guidelines:

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(1) Location and height.

a. Facing the front lot line within 25 feet of said line on an interior lot. An open fence or a closed fence with no more than 50 percent closed construction, not exceeding 48 inches in height. The portion of the fence that sits between the front building line of a nonconforming principal building, excluding any porches, patios, or enclosed entryways, and the front lot line setback, may be constructed using the criteria in part (e) of this subsection with the approval of the neighboring property owner.

b. Facing the front lot line within 25 feet of said line on a corner lot. Any fence constructed within the fence vision triangle must not be more than 50 percent closed construction and not exceeding 48 inches in height. Fences outside the fence vision triangle may be constructed using the criteria in part (a) of this subsection.

c. Facing the side lot line adjacent to the side street on a corner lot. Any fence constructed within the fence vision triangle or within a driveway vision triangle must not be more than 50 percent closed construction. Fences outside the fence vision triangle or driveway vision triangle may follow the guideline in part (e) of this subsection.

d. Facing the interior side lot line within 25 feet of the front property line. Any open fence or closed fence not exceeding 48 inches in height. The portion of the fence that sits between the front building line of a nonconforming principal building, excluding any porches, patios, or enclosed entryways, may be built using the criteria in part (e) of this subsection with the approval of the neighboring property owner.

e. Fences along all other lot lines. May be open or closed. They shall be limited to 72 inches in height.

(2) Material. All fences shall be constructed using only the following fencing material:

- a. Board wood not exceeding 12 inches in width.
- b. Polyvinyl Chloride (PVC) or other plastics similar in appearance.
- c. Fiberglass.
- d. Wrought iron.
- e. Wood simulated composite.
- f. Masonry.
- g. Chain link (not chain), decorative wire, or decorative border fencing.
- h. Chicken wire, barbed wire, welded wire, kennel type fencing, corrals, and electrically charged fences are not permitted except in R-R zoning."

SECTION 5. Section 111-123. Heavy commercial, industrial, and Ag requirements is amended as follows:

"Sec. 111-123. – Heavy commercial, industrial, and Ag requirements.

In C-2, C-3, Ag, and all industrial zoning districts, no fence shall be erected, constructed, reconstructed, or moved except those that meet the following guidelines:

(1) Location and height.

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- a. Fences may not be greater than 96 inches in height provided any portion of the fence above 72 inches shall not exceed more than 50 percent closed construction except fences constructed for junkyards.
- b. Fences with greater than 50 percent closed construction shall not be permitted within the fence vision triangle or driveway vision triangle; provided, they may be permitted if the applicant can demonstrate to the city manager or designee how its construction will not interfere with the regular and safe flow or vision of traffic. (Fences in C-2 are exempt from all vision triangle requirements).
- c. In all districts except C-2, barbed wire or similar material may be allowed to construct the portion of the fence greater than 84 inches in height as long as such wire does not protrude into a public right-of-way or into the neighboring property. In C-3 districts, the portion of the fence containing barbed wire must be located in the rear or side yard.

(2) Material. All fences shall be constructed using only the following fencing material:

- a. Board wood not exceeding 12 inches in width.
- b. Polyvinyl Chloride (PVC) or other plastics similar in appearance.
- c. Fiberglass.
- d. Wrought iron.
- e. Wood simulated composite.
- f. Masonry.
- g. Chain link (not chain), decorative wire, or decorative border fencing.
- h. Non-reflective steel (or other similar metal) paneling, coated or painted with rust-resistant material; only if constructed in in M-1, M-2, and M-3 zoning districts.
- i. Chicken wire, barbed wire, welded wire, kennel type fencing, corrals, and electrically charged fences are not permitted except in the Ag, Exclusive Agriculture zoning districts, or as allowed in the above code.”

SECTION 6. Section 111-242. One- and two-family dwelling parking requirements is amended as follows:

“Sec. 111-242. – One- and two-family dwelling parking requirements.

(a) Permit required. A construction permit is required for the construction, expansion, or alteration of all parking areas and drives leading thereto. The permit application shall be accompanied by a site plan showing the location of the work in relationship to lot lines and existing structures, the type and thickness of paving material, and how water runoff will be routed.

(b) Stormwater runoff. Stormwater shall be routed to lawns, yards, or other permeable surfaces when possible; however, it may not be routed to the neighboring lot without obtaining easement to do so.

(c) Number of spaces. There shall be provided a minimum of two off-street parking spaces for each family unit. Accessory dwelling units shall provide a minimum of 1 off street parking space in addition to any others required.

(d) Location.

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- (1) Such parking spaces must be located on the same lot as the principal building or buildings, or in a community garage or lot on the same block.
- (2) Parking may be head-in from a public street or alley.
- (3) Parking areas and drives leading thereto may be constructed adjacent and parallel to lot lines.

(e) Construction material. Off-street parking spaces and drives leading thereto shall be paved with Portland cement, asphaltic concrete, paving brick, gravel, or rock, provided that any gravel or rock shall not be allowed in the front or side yards.

(f) Width. One- and two-family dwellings are exempt from a maximum driveway width on the lot provided runoff is not routed to the street, but are limited to a 30 foot wide curb cut and a 24 foot wide driveway in the city right-of-way.

(g) Spacing. Driveways on the same lot shall be a minimum of 12 feet apart. Driveways on separate lots do not require a minimum separation distance.”

SECTION 7. Section 111-243. Off-street parking requirements for all other land uses is amended as follows:

“Sec. 111-243. – Off-street parking requirements for all other land uses.

(a) Permit required. A construction permit is required for all off-street parking lots, drives leading thereto, curbs, and drainage facilities within the city and its extraterritorial zoning jurisdiction as well as any parking lot improvements.

(b) Application. The application shall include, but may not be limited to, the following information:

- (1) The name and address of the applicant.
- (2) A statement that the applicant is the owner of the lot or the owner's agent.
- (3) A legal description of such lot.
- (4) A scale drawing of the proposed parking lot for which a construction permit is requested, including adjacent lot lines, present and proposed sidewalks, and access from all streets and alleys. Drawings should designate appropriate measurements, including ingress and egress locations, landscaping, parking layout, plan for handling Stormwater drainage, lighting, and surface material (type, depth, and subsurface preparations).
- (5) A statement of the off-street parking lot needs and purposes for the permit.

(c) Fee. For each permit issued there shall be charged and collected from the applicant, a fee, in accordance with a schedule established by the city council.

(d) Number of spaces. The following table shall be used as a guideline in determining the number of spaces required for the land use as listed:

Minimum Number of Off-street Parking Spaces

Land Use:	Number of Spaces
Hospitals/Institutional living	0.5 per bed and 0.5 per employee
Day care	0.75 per employee
Industrial	0.33 per employee
Commercial recreation:	

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Indoor	5 per 1,000 gfa	
Outdoor	0.25 per patron	
Bowling	4 per 1,000 gfa	
Assembly (auditoriums, churches, theaters, etc.)		Number of spaces must equal 25% of seating capacity
Bars, pubs, dancing	5 per 1,000 gfa	
Restaurants:		
Sit-down	8 per 1,000 gfa	
Fast-food	10 per 1,000 gfa	
Medical/dental clinic	3.5 per 1,000 gfa	
Veterinary clinic	1 per 1,000 gfa	
Wholesale, warehouse	0.33 per employee	
Office:		
Bank/insurance	2.5 per 1,000 gfa	
General office	2.0 per 1,000 gfa	
Motor vehicle sales and service	2.0 per 1,000 gfa	
Retail:		
General	3 per 1,000 gfa	
Shopping center	3 per 1,000 gfa	
Hotels, motels	0.3 per sleep unit	
Multi-family housing	1.5 per dwelling unit	

Note: gfa = gross floor area

- (e) Reduced number of spaces. The board of adjustment may permit the paving of fewer than the required number of spaces in cases where the immediate occupant of the property clearly shows that fewer spaces are needed at that time. Staff may also approve the utilization of on street parking spaces in lieu of off street parking spaces at a ratio of two on-street spaces to every one off-street space, provided any on street parking stall shall be adjacent to the subject property and each space shall be a minimum of 22 feet long and 8 feet wide.
- (f) Parking stall size. Standard parking stall dimensions shall be at least nine feet by 20 feet or ten feet by 18 feet; parallel parking dimensions shall be a minimum of nine feet by 22 feet. If the stall is adjacent to a landscaped area at least four feet wide and an overhang is permitted into the landscaped area, the stall length may be reduced by two feet. Other parking dimensions shall be as established by the board of adjustment.
- (g) Construction material.
- (1) Nonresidential R-1 through C-3 inclusive. Parking lots in these districts shall be paved with Portland cement, asphaltic concrete, paving brick, rock or gravel provided any rock or gravel parking lot shall be in the rear yard, or as otherwise provided for in Code.
- (2) All other zoning districts. The minimum parking lot surface material shall be rock or gravel.
- (3) The thickness of material shall be approved by the city manager or designee giving due consideration to the likely use of the facilities heavy duty vehicles and anticipated degree of use.

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(h) Striping/markings. Required off-street parking lots shall have individual spaces marked for hard surface parking lots.

(i) Maneuvering. Minimum parking lot aisle width shall be as follows:

Minimum Maneuvering Aisle Width

Traffic Direction	Parking Stall Angle				
	90 degree	60 degree	45 degree	30 degree	0 degree
One-way Traffic	24 feet	18 feet	16 feet	14 feet	15 feet
Two-way Traffic	24 feet	20 feet	20 feet	20 feet	20 feet

(j) Prohibited activities.

(1) Head-in parking from a public street or highway, excluding alleys, shall not be allowed.

(2) No signs shall be permitted within the required parking areas except those necessary for the orderly parking thereon.

(3) No parking or maneuvering incidental to parking shall be on any public street or walk; parking lot design shall be that any automobile may be parked and unparked without moving another.

(k) Driveways. Ingress and egress shall be by means of paved driveways constructed in accordance with city standards based on the land use and the zoning district location as follows:

(1) Nonresidential R-R through R-4 inclusive are limited to a maximum width of 30 feet.

(2) C-0 through C-3 inclusive shall form and maintain driveways no less than 25 feet wide but no greater than 40 feet wide.

(3) Ag and M-1 through M-3 shall form and maintain driveways no less than 30 feet wide but no greater than 45 feet wide.

(4) The minimum distance between driveways shall be 12 feet except in one- or two-family dwellings located on two different lots.

(l) Setbacks.

(1) The back of the curb of a parking area shall not be closer than three feet to a lot line unless wheel stops are placed and maintained at the three foot line.

(2) Pedestrian protection in the form of curb or wheel stops shall be placed a minimum of three feet from any sidewalk.

(3) Multifamily parking shall not be located in the front yard setback, the front yard, or the side street setback on a corner lot.

(m) Stormwater. Stormwater requirements shall be in accordance with chapter 113.

(n) Accessibility. Accessibility requirements shall be the same as found in the city building code.

(o) Landscaping and screening.

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(1) Required to provide. Each unenclosed hard surface parking facility over 6,000 square feet shall provide and maintain interior landscaped area equal to no less than five percent of the total paved area of the parking facility. All vision clearances shall be met according with chapter 20.

(2) Drawing submittal. A landscaping plan must be submitted with an off-street parking permit application for all hard surface lots. Such plan shall be drawn to scale, include the entire lot or tract and shall show ground covers such as seeded or sodded areas, shade trees, shrubs and any walls or fences. Such areas and facilities as loading docks, trash bins and outside storage yards shall be screened by such trees, shrubs and fences to the extent that the appearance of the premises from adjacent streets and property is attractive and pleasing. The purpose and intent of such landscaping is to provide shade and greenery, soften architectural lines, provide maximum absorption of surface water and present an attractive appearance. Large parking lots shall be divided down into sections as appropriate for the type and size of the development.

(3) Appeal. The adequacy of the landscape plan shall be reviewed and determined by the city manager or designee and any other city departments as appropriate. An applicant may appeal a denial of a landscape plan to the board of adjustment if feels that the denial is unreasonable and the board of adjustment shall have the final approval or denial authority. Compliance with the landscape and screening plan, as approved, is mandatory and any failure to carry out all details of said plan shall be deemed a violation of the zoning code.

(4) Bordering residential neighborhoods. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the city official.

(5) Landscaping maintenance. The property owner is responsible for maintenance and/or replacement of the landscaping according to the permitted landscape plan. Dead and dying plants shall be replaced by the owner. No buildings, storage of materials, or parking shall be permitted within the landscaped area, and the landscaped area shall be maintained and kept free of all debris, rubbish, weeds and tall grass.

(p) Lighting. Lighting is required for all new off-street parking lots unless an exemption is given by the city manager or designee, and the purpose of the exemption be filed with the construction permit.

(1) Any lights used to illuminate the parking areas shall be so arranged to direct light away from any adjacent lots in a residential district.

(2) All lighting requirements will be based upon the National Electrical Code and the table as follows:

Open Parking Facilities

General Parking and Pedestrian Area

Vehicle Use Area

Level of

Activity Lux

(min. on

pavement) Foot-candles (min. on

pavement) Uniformity Ratio (avg.:min.) Lux (min. on pavement)

pavement) Uniformity Ratio (avg.:min.)

Foot-candles (min. on

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High	10	0.9	4:1	22	2	3:1	
Medium		6	0.6	4:1	11	1	3:1
Low*	2	0.2	4:1	5	0.5	4:1	

*This recommendation is based on the requirement to maintain security at any time in areas where there is a low level of nighttime activity.

Covered Parking Facilities

Day Night

Areas Lux (min. on

pavement) Foot-candles (min. on pavement)

pavement) Foot-candles (min. on pavement)

Lux (min. on

Uniformity Ratio (avg.:min.)

General parking and pedestrian areas 54 5 54 5 4:1

Ramps and corners 108 10 54 5 4:1

Entrance areas 538 50 54 5 4:1

(q) Garbage collection in parking lots. If an alley is not available or large enough, space may be allocated in the parking lot for an adequate number of solid waste containers as determined by the city sanitation department. Such space shall not be located in the required front yard or side-yard setback areas, shall be free of any restraints from other utilities or parked vehicles, and must be accessible to collection trucks. Parking stalls occupied by containers will not count towards the required minimum number of off-street parking spaces. In the event the property is served by a commercial solid waste disposal firm, placement of the collection containers must be approved by the city. However, this is not intended to restrict the temporary placement of roll-out containers moved to the curb or alley for solid waste collection purposes.

(r) Nonconforming parking lots.

(1) Preexisting violations. Any and all violations of previous parking regulations of said city that have accrued at the time of the effective date of the ordinance from which this chapter is derived which would otherwise become legal nonconforming uses under this chapter shall not become legal nonconforming uses under this chapter, but shall remain violations of this chapter in the same manner that they were violations of prior parking regulations.

(2) Legal preexisting. All off-street parking lots in existence at the time of the passage of the ordinance from which this section is derived shall be considered legal preexisting, nonconforming parking lots if they met the requirements before its passage but no longer meet the new requirements. These lots shall be allowed to remain provided the use of the facility for which they are intended does not change in occupancy classification and they are maintained in good condition, free of all weeds, trash, other debris, and water pools or puddles.

(3) Alterations and additional off-street parking stalls shall meet the newly adopted standards.”

SECTION 8. Section 111-403. Permitting is amended as follows:

“Sec. 111-403. Permitting.

No solar energy system shall be constructed or installed without the approval of the Alliance Municipal Electric Superintendent; the issuance of a building permit; a conditional use

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permit from the city for systems greater than 500 square feet in photovoltaic cell area; as well as any other necessary permits required by the state for such installations.

- (1) The applicant shall obtain written permission from the electric department superintendent. Such written approval shall be submitted to community development in addition to the construction drawings, building permit, and CUP application (if necessary).
- (2) Additions to an existing solar energy system or an additional system that would result in the total amount of cell area greater than 500 square feet shall require a CUP.
- (3) The applicant shall call for inspections during construction and before putting the system into service. Any use of the system before a final inspection by the city and state shall merit the immediate disconnect of electric utilities from the Alliance Municipal Electric System.”

SECTION 9. Section 111-443. Setback exceptions is amended as follows:

“Sec. 111-443. - Setback exceptions.

(a) Porches. Porches on one and two-family dwellings may extend six feet into the required front or rear setback if:

1. The dwelling is located in a neighborhood that was developed prior to April 7, 1938. A neighborhood shall be considered developed as such when a majority of the houses fronting the same side of the street on the same side of the block, were constructed prior to April 7, 1938 according to the Box Butte County Assessor, Sanborn Insurance Maps, and/or any other credible sources staff may possess;
2. Multiple houses fronting the same side of the street on the same side of the block, were also legally constructed with porches extending into the front or rear yard setbacks;
3. Porches may not be extended into the front or rear setbacks on dwellings where the original porch was enclosed or converted to a room unless said enclosed porch or room meets the minimum setback requirements for one and two-family dwellings and the proposed porch meets the other provisions of this code;
4. Any porch extending into the front or rear setback shall not be turned into a room; and
5. Any porch extending into the front or rear setback shall not leave a setback of less than 15 feet from the property line to the front of the porch.

(b) Residential front building line. In subdivisions without front building lines dedicated on the plat, in covenants, or this code, and where 40 percent or more of the frontage on the same block and same side of the street has been developed, excluding reverse corner lots, the front building line for all remaining undeveloped lots shall be determined by taking the average setback found on developed lots, excluding those that vary more than ten feet in depth; provided that the board of adjustment may permit a variance in case of hardship as defined by State Statute.

(c) Open and unobstructed. Every part of each required minimum yard or court established by setbacks and building lines shall be open and unobstructed from finished grade or, where applicable from such other specified level at which the yard or court is required, to the sky except as otherwise provided for in Code.

(d) Architectural intrusion. Every part of required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices,

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chimneys, buttresses, ornamental features, and eaves; provided, however, that none of the projections shall extend into a court more than six inches nor into a minimum yard more than 24 inches.

(e) Reverse corner lots. Setbacks on reverse corner lots shall be the same as if the structure were facing the same direction as the structures on non-reverse corner lots on the same block.

(f) Nonconforming reverse corner lots. On reverse corner lots that were subdivided before the adoption of subdivision regulations and do not meet minimum lot size requirements, the minimum setbacks shall be 5 feet from the side street (front), alley, and rear property lines; and the maximum lot coverage shall be 60%.

(g) Nonconforming corner lots. Any addition to a structure on a corner lot legally developed with a side street setback less than is currently permitted by code may continue along that same side street building line provided such building line is a minimum of 5 feet from the side street property line and is not located within the front or rear yard setbacks.”

SECTION 10. Section 111-444. Yard allowances is amended as follows:

“Sec. 111-444. - Yard allowances.

Yard Requirements

Use	Street Side Yard of a Corner Lot	Interior Side Yard	Rear Yard	Front Yard
Open storage of boats, trailers, and campers	Anywhere in above yard			
Television, radio equipment, and satellite dishes	Anywhere in above yard	Not Allowed	Anywhere in above yard	Anywhere in above yard
Garages, carports, and other accessory buildings	Anywhere except within required setbacks			
	Not Allowed	Not Allowed	Not Allowed	Not Allowed

Intrusion into Setbacks:

Cornices, chimneys, planters or similar architectural features	Two feet	Two feet	Two feet	Two feet
Fire escapes	Four feet	Four feet	Four feet	Four feet
Enclosed Porch	Not Allowed	Not Allowed	Not Allowed (b)	Not Allowed (b)
Open Porch	Three Feet (a)	Three Feet (a)	Three Feet (a)(b)	Three Feet (a)(b)
Unenclosed Porch	Not Allowed	Not Allowed	Not Allowed (b)	Not Allowed (b)

(a) Setback intrusion shall only occur to the extent it is necessary to meet the minimum landing size required by the city building code, and intrusion shall not be permitted in situations where an existing porch was enclosed or turned into a room.

(b) See Sec. 111-443 (a).”

SECTION 11. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 12. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this day of _____, 2023.

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Ordinance No. 2962

AN ORDINANCE REPEALING CHAPTER 113 OF THE ALLIANCE MUNICIPAL CODE AND ADOPTING NEW PROVISIONS IN THEIR ENTIRETY FOR CHAPTER 113 OF THE ALLIANCE MUNICIPAL CODE; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1: Chapter 113 of the City Code is repealed in its entirety and is replaced as follows:

“Sec. 113-1. Master drainage study.

Alterations or impacts to the city's drainage system as defined by the adopted master drainage study may not occur without following the provisions of the drainage criteria manual. In the event of alterations substantially impacting the drainage system a drainage study must be approved by the city manager or designee prior to the issuance of a building permit. The final drainage report will outline the physical facilities that will be required of the applicant.

Sec. 113-2. Site runoff.

The city manager or designee shall ensure that post construction runoff does not exceed preconstruction runoff except for buildings located in the central business district. The city may approve other methods of dealing with post construction runoff, such as, but not limited to sharing retention or detention facilities with other property owners.

Sec. 113-3. Flood Plain Overlay District.

Sections 113-3 through 113-23 shall be known and may be referred to as the City of Alliance floodplain management ordinance.

Sec. 113-4. Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize damages resulting from the 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, by applying the provisions of this ordinance to:

- (a) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- (b) Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
- (c) Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.

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

Sec. 113-5. Administration.

The City Manager or designee shall be responsible for enforcing the floodplain ordinance and will be referred to as the floodplain administrator of the City of Alliance in this code. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance.

Sec. 113-6. Duties of the Floodplain Administrator.

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

- (a) Review, approve, or deny all applications for floodplain development permits.
- (b) 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.
- (c) Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
- (d) 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.
- (e) Coordinate with the Nebraska Department of Natural Resources to obtain base flood elevation information when applicable and required.
- (f) 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.
- (g) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- (h) Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
- (i) Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
- (j) Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
- (k) Ensure the comprehensive development plan as amended is consistent with this ordinance.
- (l) In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

Sec. 113-7. Interpretation and conflict.

The provisions of this ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or

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

Sec. 113-8. Compliance.

Within identified floodplains 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.

Sec. 113-9. Where Applicable.

This ordinance shall apply to all lands within the jurisdictions of the City of Alliance identified on the flood insurance rate map (FIRM) community panels 310011 0005 A and 310011 0015 A dated July 16, 1987, as zone A and within the F, flood hazard zoning district established in chapter 109 of this code. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit, granted by the floodplain administrator under such safeguards and restrictions as the administrator may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in.

Sec. 113-10. Map Interpretation.

The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or the effective flood insurance rate maps. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or FIRM, the administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the City of Alliance board of adjustment shall interpret boundary locations. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the board and to submit their own technical evidence, if so desired.

Sec. 113-11. Flood Data.

(a) Sources: All zone A areas on the FIRM are subject to inundation of a base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. The community shall utilize any base flood elevation or floodway data currently available from the Nebraska department of natural resources, federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.

(b) Floodway: Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one foot at any location as shown in the flood insurance study or on base flood elevation determinations.

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Sec. 113-12. Code Violation.

Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation of the Alliance Municipal Code. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided. Violations of this code shall be prosecuted in accordance with section 101-6 of the city municipal code or as any other state or federal laws allow.

Sec. 113-13. Existing Code Violations; Saving Clause.

All rights or remedies of the City are expressly saved as to any and all violations of previous floodplain regulations or amendments thereto of the City that have accrued at the time of the effective date of the ordinance from which this chapter is derived; and that all existing violations of previous floodplain regulations which would otherwise become legal nonconforming uses under this chapter shall not become legal nonconforming uses under this chapter, but shall be violations of this chapter in the same manner that they were violations of prior floodplain regulations.

Sec. 113-14. Nonconforming Uses and Structures.

(a) Existing Structures: The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures or any structures having a nonconforming use status as the time of this ordinance. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of this code shall apply.

(b) Documentation: Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance status of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, and/or no rise certification.

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

(1) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The utility department shall notify the floodplain administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.

(2) Uses or accessory uses thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

(d) Destroyed: If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any

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alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

Sec. 113-15. Permit Required.

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

Sec. 113-16. Permit Application Requirements.

Floodplain permit applications shall be filed with the floodplain administrator on forms prescribed for that purpose and contain at a minimum:

- (a) Identify and describe the proposed development and estimated cost 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 streets 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 and authorized agent who may be required to submit evidence to indicate such authority.
- (f) Application fee.
- (g) An elevation certificate based upon the finished construction, certifying the elevation of the lowest floor, including basement, and other relevant building components completed by a licensed surveyor, engineer, or architect for new and substantially improved structures.
- (h) A floodproofing certificate completed by a licensed professional engineer or architect when floodproofing is utilized on an applicable structure.
- (i) Information submitted with the application in enough detail that the floodplain administrator can determine that:
 - (1) All such proposals are consistent with the need to minimize flood damage;
 - (2) All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
 - (3) Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - (4) Construction materials are flood resistant;
 - (5) Appropriate practices to minimize flood damage have been utilized; and
 - (6) Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
- (j) Any other such information as reasonably may be required by the {floodplain administrator} shall be provided.

Sec. 113-17. General Development Requirements.

- (a) Alteration or Relocation of a Watercourse:

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

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

(b) Encroachments consisting of any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation, or the alteration or relocation of a stream, the applicant shall:

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

(2) Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property.

Sec. 113-18. Floodproofing Requirements.

(a) Residential structures: All newly constructed or substantially improved residential structures located in Zone A shall have the lowest floor, including the basement, elevated at or above one foot above base flood elevation.

(b) Nonresidential structures: All newly constructed or substantially improved structures utilized for nonresidential purposes shall have the lowest floor, including the basement, elevated at or above one foot above base flood elevation, or floodproofed, including its utility and sanitary facilities, so that below one foot above base flood elevation:

(1) The structure is watertight with walls substantially impermeable to the passage of water; and;

(2) The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied and a floodproofing certificate shall be provided to the floodplain administrator.

(c) Space located below the lowest floor of all structures shall meet these minimum requirements:

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

(2) Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

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- i. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,
- ii. The bottom of all openings shall not be higher than one (1) foot above grade, and
- iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

Sec. 113-19. Construction and Design Standards.

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

(b) **Building Materials and Utilities:**

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

(2) All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) **Drainage:** Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

(d) **Water Supply and Sanitary Sewer Systems**

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

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

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

(e) **Other Utilities:** All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

(f) **Storage areas:**

(1) 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.

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

(g) **Recreational Vehicle Parking:**

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- (1) Be on site for fewer than 180 consecutive days; and
- (2) Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
- (3) Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

(h) Manufactured Housing:

- (1) Manufactured homes to be placed or substantially improved within floodplains on sites:
 - i. Outside of a manufactured home park or subdivision,
 - ii. In a new manufactured home park or subdivision,
 - iii. In an expansion to an existing manufactured home park or subdivision, or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home as incurred substantial damage as the result of a flood,

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

- (2) Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas that are not subject to the provisions of Section 113-14 (h)(1) be elevated so that either:
 - i. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - ii. 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 this code.

(3) New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section 113-14(i).

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

- i. Over-the-top ties shall 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;
- ii. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
- iii. Any additions to the manufactured home be similarly anchored.

(i) Subdivisions: Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:

- (1) All such proposals are consistent with the need to minimize flood damage;

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- (2) All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
- (4) Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

Sec. 113-20. Variance Procedures.

The process for any appeal or variance application from this floodplain ordinance shall be as follows:

- (a) The City of Alliance board of adjustment shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (b) The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
- (c) Any person aggrieved by the decision of the board of adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska Revised Statutes § 19-192 (for municipalities)
- (d) In evaluating such appeals and requests, the board of adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - (1) The danger to life and property due to flooding or erosion damage;
 - (2) The danger that materials may be swept onto other lands to the injury of others;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity of the facility to have a waterfront location, where applicable;
 - (6) The availability of alternative locations that are 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 the floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) 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,
 - (11) The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

Sec. 113-21. Variance Requirements.

Variations shall only be issued in accordance with the following requirements:

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- (a) Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant due to the unique conditions of the premises.
- (b) Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- (c) Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (d) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (e) through (h) below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (e) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (f) Variances shall only be issued upon a determination that the variance in the minimum necessary, considering the flood hazard, to afford relief.
- (g) The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- (h) All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

Sec. 113-22. Disclaimer.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of City of Alliance 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.

Sec. 113-23. 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."

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SECTION 2. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 3. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this day of _____, 2023.

Mayor Jones asked for any discussion on the agenda item.

Community Development Director Kusek gave an overview of the amendments to the Municipal Code, answering question from the Council.

Vice-Mayor McGhehey commented on Chapter 109 – “Dwelling Unit” expressing that instead of the 30% allowance for a residence on the first floor, to use a maximum of 1,100 square feet or increase the allowance to 40%.

Councilmen Andersen asked if ADU’s would be permanent structures, Director Kusek replied that they would have to be permanent in order for them to be constructed.

With no further discussion, Mayor Jones asked the Clerk to call the roll.

Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

- Resolution No. 23-50 was next for Council to review, and will accept and award Werner Construction, Hastings, Nebraska the 2023 Alliance Pavement Rehabilitation Project, in the total amount \$1,393,250.00. The following information was provided:

[As part of its ongoing pavement preservation efforts, the City has once again prepared and bid a pavement rehabilitation project for 2023. The proposed roadways for this year include: Box Butte, Park Knoll, 14th, 12th, Grove and Hammond.

Work will generally consist of miscellaneous concrete repairs, milling of concrete and asphalt streets, placement of overlay fabric and placement of a 2” asphalt overlay.

The engineer’s estimate for this work was \$1,863,534.00. Available funds for pavement rehabilitation in the current year budget is approximately \$1,851,586.80 after paying for engineering services. The project was advertised for three weeks in the local paper and bids were received on May 30, 2023. Three bidders

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submitted for this project, as shown on the attached recommendation from M.C. Schaff (engineers for the project).

The lowest responsible bidder recommended by the engineer and the city manager is Werner Construction in the amount of \$1,393,250.00 (which includes the alternate bid item 4-A). It is anticipated that Werner would begin construction on July 24, 2023 and substantially complete construction by September 30, 2023. There is a possibility that due to weather, construction will continue into the 2024 construction season.

RECOMMENDATION: APPROVE ENTERING INTO A CONTRACT WITH WERNER CONSTRUCTION FOR THE 2023 ALLIANCE PAVEMENT REHABILITATION PROJECT IN THE AMOUNT OF \$1,393,250.00]

A motion was made by Vice-Mayor McGhehey, seconded by Councilman Mischnick to approve Resolution No. 23-50 which follows in its entirety:

RESOLUTION NO. 23-50

WHEREAS, The City has determined that streets in the City of Alliance should be improved by overlaying the roads with asphalt; and

WHEREAS, M.C. Schaff and Associates, an engineering firm for the City, has let bids for the 2023 Alliance Pavement Rehabilitation Project with three bids being received; and

WHEREAS, M.C. Schaff and Associates recommends that the City award the bid to Werner Construction., Hastings, Nebraska, in the amount of One Million Three Hundred Ninety-three Thousand Two Hundred Fifty and 50/100ths Dollars, (\$1,393,250.00) as the lowest, responsive, and responsible bidder for the Asphalt Overlay Project.

NOW, THEREFORE, BE IT RESOLVED, By the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign a contract with Werner Construction, Hastings, Nebraska, for the Alliance Pavement Rehabilitation Project, as the lowest, responsive and responsible bidder obtained by M.C. Schaff and Associates.

BE IT FURTHER RESOLVED, that the contract for asphalt overlay as specifically set forth in the bidding documents, is hereby awarded to Werner Construction in the total amount of One Million Three Hundred Ninety-three Thousand Two Hundred Fifty and 50/100ths Dollars, (\$1,393,250.00) and will be paid from Account No. 24-41-41-51-930.

BE IT FURTHER RESOLVED, Staff shall contact the successful bidder so that contractual arrangements can be finalized, and work can commence according to the terms of the bid.

PASSED AND APPROVED this 20th day of June, 2023.

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Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

- The next item on the agenda was a Public Hearing for Resolution No. 23-51 on the purchase of Lot 3, Resubdivision of Block 1, Homestead Addition to the City of Alliance, Box Butte County, Nebraska. The lot is located at the southwest corner of E. Kansas Street and Homestead Avenue, Parcel ID 070027269. The following information was provided:

[Beginning in the Summer of 2022, the City of Alliance began having conversations around the possibility of establishing a WNCC campus in Alliance for teaching various building trades. In those conversations, multiple sites were presented to WNCC to see if a site could be established for both a trades building and a CDL driving school. The preference of WNCC was at that time to focus the CDL school in Scottsbluff and to have the proposed trades building located adjacent to the existing Powerline Construction & Maintenance Technology Training Center. City staff approached the owner of the property to discuss the purchase of the property at which time the proposal was presented to the City Council.

A commercial property appraisal was obtained for the property and is attached for your reference. The appraised value was returned as a range of \$18,500 to \$25,500. The City Council authorized the City Manager to continue with negotiations with various pricing, funding, and timing scenarios. Ultimately the property owner agreed to sell the property for the amount of \$35,000 plus the City covering closing costs.

As part of the FY 2022-2023 Budget, the City Council appropriated funds in the amount of \$1,300,000 for the purpose of purchasing land and constructing a building for this program and leasing it back to WNCC, similar to the arrangement in place for the Lineman School. Please note that the terms of the lease related to the Trades Building have not been finalized.

While this price is a premium over and above the appraisal value, the location is also considered to be the premium location by WNCC due to its adjacency to the existing campus and the ability to achieve synergies between the two programs. It is the recommendation of the City Manager to accept the proposed purchase price of \$35,000 plus closing costs for the purchase of approximately 1.4 acres located at the southwest corner of E. Kansas Street and Homestead Avenue, otherwise identified as PID 070027269 or Lot 3, Resubdivision of Block 1, Homestead Addition to the City of Alliance.

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RECOMMENDATION: APPROVE THE PURCHASE OF LAND KNOWN AS LOT 3, RESUBDIVISION OF BLOCK 1, HOMESTEAD ADDITION FROM EDWARD SALAZAR IN THE AMOUNT OF \$35,000 PLUS CLOSING COSTS FOR THE PURPOSE OF ESTABLISHING A BUILDING TRADES CAMPUS ON BEHALF OF WESTERN NEBRASKA COMMUNITY COLLEGE; AUTHORIZING THE MAYOR AND CITY STAFF TO EXECUTE ALL DOCUMENTS AND TRANSFER OF FUNDS ASSOCIATED WITH THE PURCHASE THEREOF]

Mayor Jones stated now is the date, time and place to conduct a public hearing on the purchase of Lot 3, Resubdivision of Block 1, Homestead Addition to the City of Alliance, Box Butte County, Nebraska. The lot is located at the southwest corner of E. Kansas Street and Homestead Avenue, Parcel ID 070027269.

Mayor Jones opened the public hearing at 7:32 p.m., asking for any testimony.

City Manager Sorensen gave an overview of the purchase agreement, stating that the purchase of the land is in hopes for the expansion of WNCC for their trade school and if not, then possibly a dorm/apartment for their students.

With no further testimony offered, Mayor Jones closed the public hearing at 7:34 p.m.

A motion was made by Vice-Mayor McGhehey to approve Resolution 23-51 which will authorize the purchase of Lot 3, Resubdivision of Block 1, Homestead Addition to the City of Alliance, Box Butte County, Nebraska, from Edward Salazar, in the amount of \$35,0000.00 plus closing costs, seconded by Councilmen Andersen. Which follows in its entirety:

RESOLUTION NO. 23-51

WHEREAS, The City of Alliance owns various properties throughout the community; and

WHEREAS, The City desires to purchase property to further develop a WNCC campus for Alliance; and

WHEREAS, The City Council has authorized staff to negotiate a Purchase Agreement with Edward Salazar for Lot 3, Resubdivision of Lot 1, Homestead Addition City of Alliance, Box Butte County, Nebraska, also identified with tax Parcel ID 070027269; and

WHEREAS, City of Alliance staff and Edward Salazar have agreed on a Purchase Agreement for the conveyance of Lot 3, Resubdivision of Lot 1, Homestead Addition City of Alliance, Box Butte County, Nebraska in the amount of Thirty-Five Thousand Dollars and no/100ths (\$35,000.00) plus closing costs; and

WHEREAS, The City Council believes the purchase of Lot 3, Resubdivision of Lot 1, Homestead Addition City of Alliance, Box Butte County, Nebraska in the amount of Thirty-Five Thousand Dollars and no/100ths (\$35,000.00) plus closing costs will give the opportunity to expand the Alliance WNCC campus.

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NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Alliance, Nebraska approves the Real Estate Purchase Agreement in the amount of Thirty-Five Thousand Dollars and no/100ths (\$35,000.00) plus closing costs with Edward Salazar for the purchase of Lot 3, Resubdivision of Lot 1, Homestead Addition City of Alliance, Box Butte County, Nebraska.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign the Real Estate Purchase Agreement all of the associated documents related to closing.

PASSED AND APPROVED this 20th day of June, 2023.

Roll call vote with the following results:

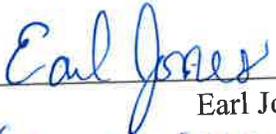
Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

The Alliance City Council adjourned the June 20, 2023 City Council Meeting at 7:36 p.m.

(SEAL)



Earl Jones, Mayor



Shelbi C. Pitt, City Clerk

Complete minutes of the Alliance City Council may be viewed by the public during regular work hours at the City Clerk's Office, 324 Laramie Avenue, Alliance, Nebraska.