

**VILLAGE OF NEHAWKA**

**ORDINANCE NO. 2024-1**

**AN ORDINANCE GRANTING THE NEHAWKA PLANNING COMMISSION THE AUTHORITY TO ISSUE BUILDING PERMITS AND AMENDING ORDINANCE 32.02 AND 150.01, AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the Acts of the Legislature of the State of Nebraska empower and authorize the Village to revise, amend, restate, codify and compile any existing ordinances.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NEHAWKA, CASS COUNTY, NEBRASKA AS FOLLOWS:**

**Section 1.**: Chapter 32, Section 32.02: Planning Commission of the general ordinances of the Village of Nehawka, Nebraska, is hereby repealed in its entirety and replaced in its entirety as follows:

**§ 32.02 PLANNING COMMISSION.**

(A) (1) If the Board of Trustees adopts zoning or other regulations pursuant to Neb. RS 19-901 *et seq.*, the Planning Commission shall consist of five, seven, or nine regular members, as specified by the Board of Trustees by ordinance, who shall represent, insofar as is possible, the different professions or occupations in the village and shall be appointed by the Chairperson of the Board of Trustees by and with the approval of a majority vote of the members elected to the Board. Two of the regular members may be residents of the area over which the village is authorized to exercise extraterritorial zoning and subdivision regulation. When there are 200 residents in the area over which the village exercises extraterritorial zoning and subdivision regulation, one regular member of the Commission shall be a resident from such area. If it is determined by the Board of Trustees that 200 residents reside in the area subject to extraterritorial zoning or subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. A number of commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. All regular members of the Commission shall serve without compensation. The term of each regular member shall be three years, except that 1/3 or fewer of the regular members of the first commission to be so appointed shall serve for terms of 1 year, 1/3 or fewer for terms of two years, and the remaining members for terms of three years. All regular members shall hold office until their successors are appointed. Any

member may, after a public hearing before the Board of Trustees, be removed by the Chairperson of the Board with the consent of a majority vote of the members elected to the Board for inefficiency, neglect of duty, or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Chairperson of the Board.

(2) The Chairperson of the Board of Trustees may, with the approval of a majority vote of the elected members of the Board, appoint one alternate member to the Planning Commission. The alternate member shall serve without compensation and shall hold no other village office. The term of the alternate member shall be three years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Chairperson of the Board with the approval of a majority vote of the elected members of the Board. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.

(Neb. RS 19-926)

(3) A regular or alternate member of the Planning Commission may hold any other municipal office except Mayor, a member of the City Council or Village Board of Trustees, a member of any community redevelopment authority or limited community redevelopment authority created under Neb. RS 18-2102.01, or a member of any citizen advisory review committee created under Neb. RS 18-2715.

(B) The Commission shall elect its Chairperson from its members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, and he or she shall be eligible for reelection. The Commission shall hold at least one regular meeting in each calendar quarter, except as provided in this section. The Board of Trustees may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. If no business is pending before the Commission, the Chairperson may cancel a quarterly meeting, but no more than 3 quarterly meetings may be cancelled per calendar year. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

(Neb. RS 19-927)

(C) No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the Village Clerk where they shall be available for public inspection during office hours.

(D) The Board of Trustees may provide the funds, equipment, and accommodations necessary for the work of the Commission, but the expenditures of the Commission,

exclusive of gifts, shall be within the amounts appropriated for that purpose by the Board; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

(Neb. RS 19-928)

(E) (1) (a) Except as provided in Neb. RS 19-930 to 19-933, the Planning Commission shall:

(i) Make and adopt plans for the physical development of the village, including any areas outside its boundaries which in the Commission's judgment bear relation to the planning of such village and including a comprehensive development plan as defined by Neb. RS 19-903;

(ii) Prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested village departments; and

(iii) Consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The Commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports.

(b) The Board of Trustees shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission, provided that the Planning Commission shall make its recommendation so that it is received by the Board of Trustees within 30 days after the Commission begins consideration of a matter or within such other number of days as the Board of Trustees has set by ordinance.

(c) A recommendation from the Planning Commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the Board of Trustees has designated, by ordinance, an agent pursuant to Neb. RS 19-916.

(2) (a) The Commission may, with the consent of the Board of Trustees, in its own name:

(i) Make and enter into contracts with public or private bodies;

(ii) Receive contributions, bequests, gifts, or grant funds from public or private sources;

(iii) Expend the funds appropriated to it by the village;

(iv) Employ agents and employees;

(v) Acquire, hold, and dispose of property; and

(vi) Consider building permit applications and issue building permits in accordance with the

procedures set forth in Chapter 150: Building Regulations.

- (b) The Commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

(3) (a) The Commission may grant conditional uses or special exceptions to property owners for the use of their property if the Board of Trustees has, through a zoning ordinance or special ordinance, generally authorized the Commission to exercise such powers and has approved the standards and procedures adopted by the Commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized.

(b) The power to grant conditional uses or special exceptions shall be the exclusive authority of the Commission, except that the Board of Trustees may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The Board may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest.

(c) An appeal of a decision by the Commission or Board regarding a conditional use or special exception shall be made to the district court.

(Neb. RS 19-929)

***Cross-reference:***

*Local legislation regarding Planning Commission, see Title XVII*

***Statutory reference:***

*Other provisions on planning commissions, see Neb. RS 19-925 through 19-933*

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**Section 2.** Chapter 150, Building Permits and Regulations, Section 150.01: Requirement of the general ordinances of the Village of Nehawka, Nebraska, is hereby repealed in its entirety and replaced in its entirety as follows:

**§ 150.01 Requirement.**

1. Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done (the “Applicant”), shall file with the Village Clerk an application for a building permit. The

application shall be in writing on a form to be furnished by the Village Clerk for that purpose. Every such application shall set forth the legal description of the land and physical address upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon.

2. Once the Applicant completes all required information on the building permit application, the application shall be submitted to the Village Clerk along with a non-refundable \$25.00 application fee.
3. Upon receipt of the building permit application, the Village Clerk shall provide the building permit application to the Planning Commission for consideration and examination. The application, plans, and specifications so filed with the Village Clerk may be checked and examined by the Board of Trustees, who may, in its discretion, transfer the building permit application from the Planning Commission to the Board of Trustees for consideration and approval or denial as the case may be.
4. Upon receiving the building permit application, the Planning Commission shall promptly schedule a public hearing to review the building permit application. The public hearing shall be scheduled not sooner than 7 days and not more than 14 days following the submittal of the building permit application to the Village Clerk. The Applicant is encouraged to attend the public hearing to answer questions regarding the building permit application. The Planning Commission will review and examine the building permit application for compliance with the zoning rules and regulations and ordinances of the Village of Nehawka. The zoning rules and regulations and ordinances are available by request from the Village Clerk and are available online through the Village's website currently found at <https://www.nehawkanebraaska.com/index.php/village-office>
5. If the building permit application complies with all applicable rules, regulations, and ordinances the Planning Commission may grant a building permit to the Applicant by authorizing the Village Clerk to execute and issue the building permit. The Applicant will receive an executed copy of the building permit for submittal to the Cass County Zoning Office.
6. If the Planning Commission denies a building permit application, the Planning Commission shall so notify the Village Board of Trustees through the Village Clerk and the building permit application shall be placed on the agenda for the next Village Board Meeting at which time the Village Board of Trustees may examine and consider the building permit application and may grant or deny the building permit application.
7. The Planning Commission may also transfer a building permit application to the Village Board of Trustees, which shall be placed on the agenda of the next Village Board Meeting. If the Planning Commission transfers a building permit application to the Board of Trustees it shall also provide a written recommendation to either approve or deny the building permit application and articulate the basis for the recommendation.

8. The Planning Commission shall update the Village Board of Trustees of any building permits that have come before the Planning Commission and the action taken by the Planning Commission at the Village Board Meeting immediately following the action taken by the Planning Commission.
9. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

Penalty, see § 10.99

**Section 3.** The Clerk shall publish a true and correct copy of this Ordinance on the Village of Nehawka website.

**Section 4.** This Ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting according to law, being 15 days from and after its passage, as required by law.

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

THIRD READING: \_\_\_\_\_

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

BY: \_\_\_\_\_

Chairman

Attest:

\_\_\_\_\_

Clerk

ATTESTED AND PUBLISHED BY POSTING AT THE COMMUNITY BUILDING, POST OFFICE, AND BANK WITHIN 15 DAYS OF PASSAGE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

Attest:

\_\_\_\_\_

Clerk

Date: \_\_\_\_\_