

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO ENACT DIVISION 6 TO ARTICLE VIII OF CHAPTER 27 OF THE OFFICIAL CITY CODE PROVIDING FOR THE CREATION OF A NORTH FORK OF THE ELKHORN RIVER OVERLAY DISTRICT; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Division 6 to Article VIII of Chapter 27 of the Official City Code is hereby enacted to read as follows:

**Chapter 27**

**ZONING**

**ARTICLE VIII. SPECIAL AND OVERLAY DISTRICTS**

**DIVISION 6. NORTH FORK OF THE ELKHORN RIVER OVERLAY DISTRICT**

**Sec. 27-280.01. Intent – North Fork of the Elkhorn River Overlay.**

The intent of this North Fork of the Elkhorn River Overlay District is to overlay the primary zoning districts established and described in Article VII of this Chapter which may be applicable to land contained within the officially designated North Fork of the Elkhorn River Overlay District to provide the flexibility for future development to facilitate a positive transition from the existing downtown district toward a lively, active riverfront. This overlay district will supplement the underlying zoning to provide a framework that includes the tenets of a sustainable urban business environment (corporate office space, ancillary retail development, public and private parking, safe streets) and residential neighborhoods, while encouraging and promoting a connection to the elements of an accessible, pedestrian-friendly, multi-use riverfront that serves the larger community as a whole.

**Sec. 27-280.02. North Fork of the Elkhorn River Overlay District Boundary.**

The boundary of the North Fork of the Elkhorn River Overlay District is comprised of the property generally described as follows:

An area along the North Fork of the Elkhorn River between Elm Street and Park Avenue, and as delineated on the official North Fork of the Elkhorn River Overlay District Map of the City as approved by ordinance. The overlay district consists of approximately 92.5 acres, currently zoned residential, commercial and industrial. The proposed overlay district includes both the interior parcels and the entirety of the adjacent rights of way so that the proposed framework may apply to the street and streetscape improvements on both sides of the streets adjacent to the proposed overlay district.

**Sec. 27-280.03. Provisions for North Fork of the Elkhorn River Overlay District.**

(a) *Description of character.* This North Fork of the Elkhorn River Overlay District will support and attract a diverse and economically sustainable mixed-use business/residential community that will continue the aesthetics of the existing downtown district, in coordination with the adjacent zoning districts, creates, encourages and promotes a safe and vibrant environment that is accessible to the public. The character of this overlay district will include high caliber, long-lasting buildings while maintaining a strong connection to revitalized streets and green spaces where multimodal connection to the riverfront is encourage and celebrated.

(b) *Goals and objectives.* The goal of the overlay district is to provide a framework for future redevelopment that supplements the underlying zoning of the property within the overlay district while promoting and emphasizing design elements that transition from the downtown, urban core of the city to the vibrant, multi-use riverfront. Its objectives include:

- (1) Lot dimensional allowances that support the connection of the buildings to the adjacent streetscape while providing open spaces on properties that face the North Fork of the Elkhorn River.
- (2) Building envelope standards that provide maximum flexibility to support high density urban development while including public amenity spaces, line of site views, and pedestrian connections to the adjacent riverfront.
- (3) Minimize the quantity and appearance of parking lots and loading areas within the overlay district.
- (4) Public and private signage and lighting standards that encourage way finding, pedestrian safety, and safe multimodal use of public space and facilitate harmonious and consistent connection between private and public spaces.

(5) Landscaping standards that contribute to the establishment of safe, accessible streets with clear paths of travel, walkable connection to the riverfront, street amenities, on-street parking and continuous green canopies that reinforce appropriate transitional zones and contribute to minimizing stormwater runoff.

**Sec. 27-280.04. Special regulations and exemptions.**

- (a) *Exemptions.* Within the overlay district, the following exemptions shall apply:
- (1) Single-family development, existing as of *(insert date of code adoption)*, shall be exempt from all overlay district special development regulations, except for non-conforming uses and newly built structures.
  - (2) Industrial and storage buildings located within an industrial district shall be exempted from landscaping requirements and architectural/building requirements only if no building abut a residentially zoned area or front on public or platted roads. All industrial buildings shall satisfy the color requirements.
  - (3) Electrical substations and similar public or quasi-public facilities that prohibit access by the public onto the site may be exempted from architectural/building requirements, if the exempted building(s) and equipment will be visually screened from adjacent properties and roadways.

**Section 27-280.05. Layout and design criteria.**

- (a) *The location and design of buildings, parking facilities, and loading docks.*
- (1) Access points for buildings, pedestrians, and vehicles shall promote safe and enjoyable connections to the street grid within the overlay district and adjacent riverfront amenity area. Development is and encouraged to reinforce the appearance and flow of pedestrian and vehicular traffic flows within the public realm. Open spaces provided on private property shall connect and provide access to the adjacent streets, coordinating with the tree canopies and streetscape amenities provided in the right of way.
  - (2) All exposed building walls shall contain some masonry material. Development architectural theme is based on the existing downtown urban core area.
  - (3) Development in the overlay district shall promote a park environment where the needs of all are considered in a sustainable, pedestrian friendly environment that encourages pedestrian access to businesses, residences, amenities and the riverfront in a safe, effective manner at all times of the day. Single purpose, reserved surface parking should be minimized and on-street parking shall be provided to the maximum extent as right-of-way improvements are made. Both public and private off-street parking shall be well marked and consideration should be given to opportunities for

shared use parking where private parking for business might be available to the public during off-peak hours and consideration should be given to shared parking areas for multiple parcels. Convenient bicycle parking is encouraged to be provided within both private and public parking facilities, open spaces, and in buildings. Signage promoting the use of bicycles and providing way finding shall be utilized throughout the overlay district.

(4) Loading docks shall be provided as required to minimize loading from trucks obstructing travel lanes in the streets. Permanent docks shall be designed so that temporary encroachment of vehicles into the right of way does not exceed 20 feet or into the travel lanes (whichever is smaller) when in use.

(b) *On-site circulation.* Circulation within each developed parcel shall be commensurate with its use and emphasize pedestrians and multi-modal connections to the adjacent streets. Adequate provisions shall be given to the efficient entrance and exit of on-site parking facilities and proposed facilities shall identify potential impacts to the efficiency and safety of the adjacent street network. The comfort and safety of pedestrians and bicyclists in the right of way shall be emphasized.

(c) *Landscaping and screening.* Setbacks are not specifically required in the overlay district but are required by the underlying zoning district and shall be described for each individual project in its plan for review, as connectivity between the buildings and adjacent streets is emphasized. Specific attention shall be given, to the extent possible, to providing a continuous tree canopy to provide pedestrians a clear path of travel throughout the overlay district to the riverfront. Landscaping in surface parking lots, open spaces, and adjacent streets shall be diverse and emphasize native plants and materials. Low maintenance street trees 2" in diameter or larger are encouraged. Trees shall be spaced in a context-sensitive manner to the adjacent buildings, roadways and parking facilities.

Walls and screens shall be utilized, where appropriate, to define outdoor spaces, retain earth, enhance the pedestrian experience, separate the street-space from the private realm (parking lots, refuse areas, gardens) and screen ground level equipment. They shall be high quality stone, brick, metal (wrought iron, welded steel and/or aluminum [electro-statically plated black]).

(d) *Lighting.* Outdoor lighting design for the overlay district is intended to provide safety while accenting key architectural elements and landscape features and creating a unique identity for the businesses, residential and public spaces within the overlay district. Light fixture style, material and color shall be chosen to complement the design of any proposed development project and other lighting fixtures already approved within the overlay district.

Street lighting in the right of way shall be designed to meet Illuminating Engineering Society (IES) standards for adequate light coverage and shall be directed downward and mounted horizontal to the ground surface to minimize driver distraction and light pollution. Proposed lighting fixtures shall be a maximum of 45 feet in height (including base) within vehicular areas

and 25 feet in height within non-vehicular, open space and pedestrian areas. Lighting fixtures intended to illuminate roof-top gardens shall be designed to minimize light pollution while still providing adequate light levels to create a safe environment. All lighting sources shall be LED with a 4000 degree kelvin temperature throughout the overlay district. All lighting fixtures, with the exception of fixtures used to accent architectural building features, landscaping or art shall be cutoff fixtures in accordance with the Illuminating Engineering Society (IES) standards.

(e) *Signage.* The overlay district is intended to be a pedestrian friendly urban business environment with mixed-use elements that connect and enhance the downtown and riverfront and serve the larger community as a whole. Signage and street graphics in this overlay district will contribute to increased traffic and pedestrian safety, reduced visual blight, and clearer connections. Signage in this overlay district will promote appropriate signs and street graphics, harmonious with the city's visual context, and connected to other specialty districts such as the downtown district. These goals will be achieved with utilization of appropriately scaled signage, materials, and lighting levels; the use of comprehensive lighting and graphic design, durable materials, and creative installations coupled with ongoing maintenance to create an inviting atmosphere for residents, visitors, workers, and tourists.

The unique relationship of buildings to a street grid in this overlay district may present unique opportunities and challenges for utilizing signs and street graphics to optimize the user experience. Signage will address these challenges and opportunities and maintain a consistent urban neighborhood with a cohesive, harmonious, and distinct signage standard.

Signage in the overlay district shall be permitted as allowed in the underlying zoning district with the addition of the following overlay criteria:

1. Flashing signs are prohibited.
2. Street light pole banners for corporate or civic events (no advertising) are permitted in the right of way.
3. Light standard signs are limited to surface parking lots, and can only be used for way finding signage.
4. Inflatable signs are prohibited.
5. Billboards are prohibited.
6. Freestanding signage in the right of way is permitted but limited to directional way finding. Advertising is prohibited within the right of way. Freestanding signage size shall be a maximum of 25 square feet.
7. Dynamic media directory signs are permitted on private property. Screens for dynamic media directory signs shall be a maximum of 55" diagonally, with pedestrian level lighting, not to interfere with traffic. Any dynamic media directory signs, for off-

premise entities, located within 600 feet of Norfolk Avenue shall meet Nebraska Department of Roads (NDOR) outdoor advertising standards related to screen message, turnover rate, etc.

8. Rooftop signs are prohibited.
9. Backlit window signs are permitted, behind perimeter fenestrations/window glass.
10. District gateway signage at overlay district boundaries is permitted.

(f) *Building orientation, height, and setbacks.* Buildings proposed in the overlay district shall be of an orientation and height to support an urban business, mixed-use development while providing and celebrating a connection to the adjacent streets and riverfront.

The setbacks from the street, adjacent side properties and setbacks from the river to provide open space and protection of the river shall be described for each individual project in its submitted plan for review.

Building height shall not be limited in number of stories, or floors, but shall be appropriately scaled to be consistent with and facilitate development of facilities for business and residential enterprises, while maintaining strong connections to revitalized streets and green spaces where multimodal connection(s) to the riverfront is encouraged and celebrated--all within a sustainable urban business environment. Buildings within the overlay district shall not exceed 45 feet without requesting and being granted a conditional use permit for extra height.

Permanent overhangs from the building over the public right of way shall maintain a clear height of at least 10 feet from the sidewalk, except as otherwise provided for signs, street lighting and similar appurtenances. Temporary or intermittent overhangs or doors shall be permitted to encroach into the public right of way as long as ADA compliance is maintained.

Uses that promote a lively street presence shall be encouraged by the construction of patios, terraces, or outdoor spaces in the public right of way for on-street dining, provided that a minimum of 8 feet of public access running parallel to the curb remains between the surrounding fence or rail and curb. Patio surfaces shall be concrete, colored concrete, concrete or stone pavers or other high quality material. Railing or fencing shall be wrought iron or welded steel/aluminum (electro-statically plated black). Chain link or plastic fencing is not permitted.

(g) *Open space and pedestrian amenities.* Where open space is provided in the overlay district, specific consideration shall be given to providing pedestrian connections to the adjacent streets encouraging connection to the riverfront. Green space, where provided, shall give consideration to enhancing the diversity of public recreational opportunities in the urban framework. Pedestrian amenities, including seating, landscaping, a tree canopy, trash receptacles, safe and efficient lighting and way finding within and through the overlay district shall be provided, subject to review board approval.

(h) *Cross access easements for a riverfront promenade.* All proposed development in the overlay district shall coordinate with and connect to cross access easements providing public access to the riverfront to encourage those working, living, or visiting within the overlay district to have access to and visibility of both riverfront and surrounding public amenities.

(i) The design guidelines set forth in this subsection shall be applicable to the North Fork of the Elkhorn River Overlay District.

(1) Prior to site plan review by the review board, applicants shall submit to the city two sets and a full-size pdf digital file of the following information and shall obtain staff acknowledgement that each required component has been addressed.

a. **Site plan.** This plan shall indicate setbacks and all site development and shall depict: building orientation, locations of signage, location of service areas, dumpsters, loading zones, mechanical equipment, and any other "visually offensive elements" as described in these requirements, including locations and specifications of screening devices.

b. **Tree plan.** This plan shall indicate location, diameter of minimum 2-inch caliper, and species of all trees. (May be located on the landscape plan, if all items remain legible)

c. **Landscape plan.** The landscape plan may be incorporated into the site plan, if all items remain legible. It shall include calculations demonstrating compliance with this Code and any special landscaping requirements as established within each district.

d. **Building floor plans.** This plan shall depict general location of entries and exits, restrooms, and general uses.

e. **Roof plan.** This plan shall indicate roof type, slope, and any visually offensive elements (as described in these requirements) and descriptions of screening devices.

f. **Building elevations.** This plan shall include all exterior-building elevations, including all items affecting the appearance of the building, including roof design, complete description of exterior building materials, exterior building colors, all loading zones, mechanical and electrical equipment locations and their required screening devices, and signs attached to buildings.

g. **Building color samples (minimum sample sizes: three by five inches):** Exterior and exterior signage color samples shall be submitted.

h. **Site lighting plan.** The site lighting plan may be incorporated into the site plan. It must indicate the site lighting plan, as well as a light fixture schedule with cut sheets for all site lighting fixtures. This includes any site lighting fixtures attached to buildings.

i. **Sign elevations (minimum scale: three-quarters inch equals one foot).** These are to be detailed drawings of building and site signage including all items affecting the appearance of signs, including but not limited to: dimensions, area in square feet, complete description of finish materials and their colors, color samples (minimum size three inches by five inches, using Pantone Matching System<sup>®</sup> numbers with color number on back of each sample) and method of illumination. This is required for all outdoor signs except those which cannot be determined because the occupancy of the space is not known. No sign permit shall be issued for any sign not appearing on a site plan approved by the review board.

(2) **Building walls.** The exterior walls of the principal building shall be constructed using some masonry and then any of the following materials and in the following specified

manner. All materials shall be used over the entire building or as continuous horizontal blends only. No panelizing shall be permitted or other simulations.

a. Stucco with a "float finish," smooth or coarse, machine spray, dash and troweled.

b. Wood clapboard five inches to the weather.

c. Wood shingles seven inches to the weather.

d. Wood board or batten board of a board width from eight to 18 inches.

e. Wood shiplap siding smooth face seven inches to the weather.

f. Cement board siding in any of the finishes above.

g. Or other approved material per the Review Board.

(3) *Accessory buildings.* Accessory structures, including sheds, out-buildings, dumpster enclosures, and screening structures, shall match the style, finish, and color of the site's main building. Metal utility sheds and car canopies are prohibited.

(4) *Prohibited architectural styles.* The following are not considered to be consistent with the existing or desired architectural style nor appropriate for this overlay district and are prohibited:

a. Corporate signature or commercial prototype architecture, unless such is consistent with all requirements of this Code. Examples of such include, but are not limited to, flat roofed convenience stores and gas stations.

b. Buildings which are of symbolic design for reasons of advertising and buildings which are not compatible to the atmosphere of this overlay district. Examples of such include "A frame" style roofs, garishly colored roofs, translucent architectural elements, and the like.

c. Any kitsch architecture (pretentious bad taste) which does not resemble a typical structure. Examples of such include, but are not limited to, structures that resemble an exaggerated plant, fish, edible food, or other such items such as giant oranges, ice cream cones, and dinosaurs.

d. Any architecture having a historical reference that is so unique and different from the existing design philosophy that such reference is inconsistent and/or incompatible with surrounding structures. Examples of such include, but are not limited to, igloos, domes or geodesic domes, Quonset style structures, teepees, log cabins, medieval castle, and caves.

e. Styles that are not compatible with the existing theme.

(5) *Screening devices.*

a. "Visually offensive elements," whether freestanding, mounted on roofs, or located anywhere on a structure shall be concealed from view on all sides. "Visually offensive elements" consist of: Walk-in coolers/freezers, transformers, electrical equipment (including panels and meters), water or waste piping and valves, pumps, fans, exhaust vents, compressors, generators, tanks, and similar equipment. Individual screens, building elements, or appropriate landscaping, are to be used to completely screen the offensive elements from view from adjacent roads, properties, and parking areas. Parapet walls, visible roof structures, individual screens, or building elements shall be used to completely screen roof mounted, visually offensive elements from view from any point around the entire building perimeter. Screening devices shall relate to the building's style of architecture and materials. All screening devices shall be designed so that no part of the offensive element extends beyond the top of the screen, measured vertically. Rooftop screening devices shall not be required for plumbing roof vents



which are less than four inches in diameter and less than 12 inches above roof penetration. These roof vents are to be located where they will be least visible from roadways.

b. Chain link fencing, with or without slats, is prohibited as a screening device for screening visually offensive elements and nuisance elements.

(6) *Landscape Requirements.*

a. Within the perimeter landscape strips, the following landscaping shall be provided per 100 (lineal feet):

1. Four canopy trees.
2. Three understory trees.
3. Continuous hedge, along parking lot areas.

b. The above referenced hedge shall provide a visual screen three feet high above the grade of the project site parking area. Hedge material shall provide full screening to the ground; therefore, deciduous shrubs with open leafing characteristics shall not be used for hedge material unless a double row arrangement is used.

c. Clustering of trees along the buffer strip is encouraged, and uniform spacing of trees is discouraged, except where used to emphasize a particular planting theme or development style.

(j) *Review board.* Applications for development within the North Fork of the Elkhorn River Overlay District shall be reviewed for compliance with the existing comprehensive plan, existing zoning district regulations including setbacks, overlay district regulations and the goals and expectations of this overlay district.

(1) *Preliminary review of site plans.* Prior to submittal to the review board, staff acknowledgement of site plans is mandatory, including review of landscaping and tree plans, architectural plans, lighting plans, and color and exterior finish samples.

(2) *Final review of site plans.* Following preliminary review of the site plans, applicant shall submit the final plans to the review board 30 days prior to their regularly scheduled review meeting.

(3) *Approval for change of exterior design required.* Changes to the exterior of any structure in the overlay district shall require review and approval by the review board. Such changes shall include, but not be limited to, colors, building materials, roof finishes and signage. Routine maintenance and replacement of materials which do not affect the approved exterior design shall be exempt from such review and approval.

(4) The review board will be comprised of 5 members appointed by the mayor and confirmed by the city council. The review board will meet on the 2nd Monday of the month, only when a plan has been submitted within the timeframe described above.

(5) The review board will approve and amend plans by resolution.

(k) *Building permit.* No building permit shall be applied for before the review board enacts a resolution approving or amending the final plans submitted to the review board, as required by this division.

**Section 27-280.06. Waivers.**

As part of an application for development, a request may be made for a waiver of any of the provisions of this division. The request shall be heard by the planning commission in determining if any such provision be waived, modified or applied as written. The planning commission shall hold a quasi-judicial hearing on the requested waiver. The criterion for granting a waiver or modification of any of the provisions of this division is whether the strict interpretation of the requirements of this division places an inordinate burden on the property owner. No waiver shall be granted unless the planning commission finds: (a) the strict application of the overlay regulation would produce undue hardship, a possible hardship example being an existing residential structure damaged over 50% by fire, explosion or act of God; (b) such hardship is not shared generally by other properties in the same overlay district and the same vicinity; (c) the granting of such waiver will not be of substantial detriment to adjacent property and the character of the overlay district will not be changed by the granting of the waiver; and (d) the granting of such waiver is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. The waiver procedure herein is the exclusive remedy to the application of the provisions of this division and is to be utilized in lieu of an application to the Board of Adjustment for a variance.

Section 2. That the effective date of this Ordinance shall be from and after its passage, approval and publication in pamphlet form as required by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Elizabeth A. Deck, City Clerk

\_\_\_\_\_  
Josh Moenning, Mayor

Approved as to form: \_\_\_\_\_  
Clint Schukei, City Attorney