

# **City of Scottsbluff, Nebraska**

**Monday, March 2, 2015**

**Regular Meeting**

## **Item Pub. Hear.1**

**Council to conduct a public hearing as set for this date at 6:05 p.m. to consider an Ordinance Amendment Change to Chapter 25, clarifying definitions relating to Floodways within the City of Scottsbluff and its Extra Territorial Jurisdiction.**

**Staff Contact: Annie Folck, City Planner**

# Agenda Statement

Item No.

For meeting of: March 2, 2015

**AGENDA TITLE:** Council to consider an ordinance revising definitions in the Floodway Overlay District

**SUBMITTED BY DEPARTMENT/ORGANIZATION:** Planning and Zoning

**PRESENTATION BY:**

**SUMMARY EXPLANATION:** The City received a Community Assistance Visit (CAV) from FEMA last fall. As part of this process, they reviewed our ordinances that authorize the City to regulate development within the floodplain. They found a few minor deficiencies and requested that we make some changes. These changes consist of a few added definitions and some rewording for clarification, but will not affect how the City regulates development within our floodplain.

**BOARD/COMMISSION RECOMMENDATION:** Planning Commission recommends approval of this ordinance (see attached minutes).

**STAFF RECOMMENDATION:** Recommend approval of the ordinance

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**EXHIBITS**

Resolution     Ordinance     Contract     Minutes     Plan/Map

Other (specify)  \_\_\_\_\_

**NOTIFICATION LIST:** Yes     No     Further Instructions

**APPROVAL FOR SUBMITTAL:** \_\_\_\_\_  
City Manager

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Rev 3/1/99CClerk

# ORDINANCE RECORD

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

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA, AMENDING CHAPTER 25, ARTICLE 19 RELATING TO FLOODWAYS, TO AMEND SECTION 25-19-18(2), TO AMEND SECTION 25-19-29(2), AND TO ADD DEFINITIONS TO THE DEFINITIONS SECTION AT 25-19-51.1, 25-19-66.1 AND 25-19-77 TO CLARIFY DEFINITIONS FOR THE FLOODWAYS ARTICLE, TO REPEAL PRIOR SECTIONS AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Section 1. Section 25-19-18 of the Municipal Code is amended to provide as follows:

**“25-19-18. Administration.**

- (1) The Development Services Director is hereby appointed to administer and implement the provisions of this Article.
- (2) Duties of the Development Services Director shall include, but not be limited to:
  - a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this Article have been satisfied.
  - b. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
  - c. Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - e. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
  - f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
  - g. When flood proofing is utilized for a particular structure the Development Services Director shall be presented certification from a registered professional engineer or architect.
  - h. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will reasonably be safe from flooding.”

Section 2. Section 25-19-29 of the Municipal Code is amended to provide as follows:

**“25-19-29. Standards for flood fringe overlay zone; manufactured homes.**

- (1) All manufactured homes in a special flood hazard area shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
  - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
  - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - d. Any additions to the manufactured home be similarly anchored.
- (2) All manufactured homes to be placed or substantially improved within special flood hazard areas on the City's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (1) of this section if located on sites:
  - a. Outside of a manufactured home park or subdivision,



# ORDINANCE RECORD

- b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood.
- (3) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the FIRM that are not subject to the provisions of subsection (2) of this section shall be elevated so that either:
- a. The lowest floor of the manufactured home is at or above one foot above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (1) of this section."

Section 3. Section 25-19-51.1 is added to the Municipal Code as follows:

**"Section 25-19-51.1 Expansion to an Existing Manufactured Home Park or Subdivision.**

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

Section 4. Section 25-19-66.1 is added to the Municipal Code as follows:

**"Section 25-19-66.1 New Manufactured Home Park or Subdivision.**

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

Section 5. Section 25-19-77 is added to the Municipal Code as follows:

**"Section 25-19-77 Violation.**

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

Section 6. Previously existing Sections 25-19-18, 25-19-29, 25-19-51.1, 25-19-66.1 and 25-19-77, and all other Ordinances and parts of Ordinances in conflict with this Ordinance, are repealed. Provided, this Ordinance shall not be construed to affect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

Section 7. This Ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on \_\_\_\_\_, 2015.

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Mayor

ATTEST:

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City Clerk

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**Planning Commission Minutes**  
**Regular Scheduled Meeting**  
**February 9, 2015**  
**Scottsbluff, Nebraska**

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The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, February 9, 2015, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on January 30, 2015. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

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**ITEM 1:** Chairman, Becky Estrada called the meeting to order. Roll call consisted of the following members: Anita Chadwick, Dana Weber, Jim Zitterkopf, Angie Aguallo, Callan Wayman, David Gompert, Henry Huber, and Becky Estrada. Absent: Mark Westphal. City officials present: Annie Urdiales, Planning Administrator, Annie Folck, City Planner, and Gary Batt, Code Administrator II.

**ITEM 2:** Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on bookcase in the back area of the City Council Chamber, for those interested parties.

**ITEM 3:** Acknowledgment of any changes in the agenda: None.

**ITEM 4:** Business not on agenda: None

**ITEM 5:** Citizens with items not scheduled on regular agenda: None

**ITEM 6:** The minutes of January 12, 2015 were reviewed and approved. A motion was made to accept the minutes by Weber, and seconded by Zitterkopf. "YEAS": Zitterkopf, Weber, Chadwick, Aguallo, and Estrada. "NAYS": None. ABSTAIN: Wayman, Huber, and Gompert. ABSENT: Westphal. Motion carried.

**NOTE:** Commissioner Mark Westphal arrived at 6:05 p.m.

**ITEM 7A:** The Planning Commission opened a public hearing for proposed ordinance text changes in **Chapter 25-3-22.1 - Gateway Greenway Overlay zone**. Staff has been working on changes/additions since 2014 this is the third draft for the Planning Commission to review before sending on to City Council. Annie Folck, City Planner, went through and outlined the proposed changes and additions to the code. Under design guidelines language was added stating that the GG overlay zone shall be read together and incorporated with the Landscaping Article in Section 25-22-1 through 25-22-10 of the City's Municipal Code, referred to as the "Landscaping Article". Other changes are as follows:

**Section 25-3-22.1 Development Standards – A. Signs - # 2.** One wall sign or marquee sign shall be permitted per building side. Also added was **# 4.** Other signs may be permitted, in the

50 sole discretion of the Planning and Development Director, if the sign is small scale, is directional  
51 in nature and meets the intent of this section.

52 **Section 25-3-22.1 Development Standards – D. Parking Lot Designs # 1.** – All parking areas  
53 shall be paved to meet current ordinance requirements, *including those in the Landscaping*  
54 *Article. #3.* –*added All landscape islands shall have a minimum of 100 square feet of open*  
55 *ground and at least 300 cubic foot of good soil rooting volume for each tree. One half of all*  
56 *landscape islands must include a deciduous canopy tree & landscape islands shall be evenly*  
57 *distributed to the maximum extent possible.*

58 **E. Landscaping and Screening Standards** – added – To the extent reasonably feasible, all  
59 landscape plans shall be designed to incorporate water conservation materials and techniques in  
60 order to comply with each of the xeriscape landscaping principles listed below, Xeriscape  
61 landscaping principles do not include or allow artificial turf or plants, mulched (including gravel)  
62 beds or areas without landscape plant material, paving of areas not required for walkways, plazas  
63 or parking lots, bare ground, weed covered or infested surfaces or any landscaping that does not  
64 comply with the standards of this section. **#1.d.** Irrigation - Design, operate and maintain an  
65 efficient irrigation system. Drip irrigation shall be used in all landscape beds, if sprinklers are  
66 used for turf, no water shall be sprayed over sidewalks, streets or parking lots. Areas of low  
67 water use landscaping may be included but must be indicated on the plans. Irrigation water must  
68 be available for the initial two years after planting to establish low water use landscapes; **e.** Soil  
69 Preparation - Incorporate soil amendments before planting; **f.** Mulch - Add mulch to plantings  
70 beds to a minimum depth of 3” around trees and shrubs and 1: around perennials and ornamental  
71 grasses. Organic mulch is preferred; rock mulch may be used only if pre-approved by the  
72 Planner. **g.** Maintenance - Provide regular and attentive maintenance.

73 **5.** Landscaping – under building perimeter Walls typo X% needs changed to 60%. **b.** trees at a  
74 rate of one per 20’ of linear frontage. Evergreens may only be planted if planting bed is a  
75 minimum of 20 feet wide. Trees may be spread irregularly in informal groupings or be  
76 uniformly spaced, as consistent with large overall plantings patterns and organization.  
77 Trees shall be spread a minimum of 15’ apart for large shade trees and evergreens, and a  
78 minimum of 10’ apart for small ornamentals (list provides). Groupings of trees may be  
79 no more than 150’ apart. The space between the trees should be planted and maintained  
80 to aid the health and growth of the trees. There must be a maintained, non-turf grass  
81 landscape bed under and around trees, to be a minimum of 40 square feet per large shade  
82 tree or evergreen and 30 square feet per small or medium trees. The landscape zone must  
83 be planted to appropriate and compatible shrubs or herbaceous grasses or perennials to  
84 cover at least 50% of the bed. The remainder may be mulch. Organic mulch should be  
85 used if possible. **e.** Minimum Tree & Shrub sizes changed sizes – 4. Shrubs shall be two  
86 gallon size or greater or 15” (previously 18”-24”) in height if balled or bur lapped. 5.  
87 Perennials & ornamental grasses shall be one quart (previously 1 gallon) size or greater.

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89 Also, added to Development standards: **F. Minimum Species Diversity**

90 To prevent uniform insect or disease susceptibility and eventual uniform senescence on a  
91 development site or in the adjacent area or the district, species diversity is required and extensive  
92 monocultures are prohibited. The following minimum requirements shall apply to any  
93 development plan.

94 Number of trees on site, Maximum percentage of any one species  
95 10-19: 33%  
96 30-39: 25%  
97 40 or more: 15%

98 **G. Use of Approved Species**

99 Regionally native plants should be used when possible to help aid biodiversity and convey a  
100 sense of place with the natural context of our community. Ninety percent (90%) of all required  
101 trees planted must be from the approved list provided in Appendix A.  
102

103 **H. Redevelopment**

104 In the event any property owner or occupant owning or possessing property located within the  
105 GGO overlay zone commences a remodel or redevelopment project, the cost of which exceeds  
106 \$100,000.00 based upon the building permit issued by the City's Planning & Development  
107 Department, upon property that does not then meet the requirements of this section then the  
108 property owner or occupant will be required to spend 3% of any remodel or redevelopment  
109 project toward bringing the property and landscaping up to the development standards in this  
110 section. Once the property and landscaping meet the requirements of this section, the property  
111 owner or occupant will no longer have to spend a portion of the remodel or redevelopment  
112 project to make improvements in order to comply with this section. In addition, if the property  
113 owner or occupant is able to show they are unable to bring the property into compliance because  
114 of the property's topography or features, then the property owner or occupant may appear before  
115 the City's Planning Commission to explain why they cannot comply. If the Planning Commission  
116 finds the property owner or occupants are unable to comply with the requirements of this section  
117 for the reasons stated above, then it may excuse the property owner or occupant from attempting  
118 to comply and instead allow them to pay an amount equal to 3% of their project directly to the  
119 City for use by the City on Gateway Green projects within the GGO overlay zone or other  
120 Gateway and Green projects on City improvements or parks.  
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122 Annie Folck explained the Redevelopment requirements, any existing properties that improve with  
123 remodeling or redevelopment and a cost of \$100,000 or over would be required to put in three percent  
124 of their estimated cost into landscaping of their property. If unable to meet these standards the three  
125 percent will go into a City fund which will be used for improvements in the GGO zone or other green  
126 spaces within the City. The definition explains how if the redevelopment experiences hardship and they  
127 are unable to comply a compromise can be approved by the Planning Commission and the three percent  
128 would go into a City fund for green space which will meet the intent of the code by improving corridors  
129 into the City.  
130

131 The tree list (appendix A) was also changed added several tree species and eliminating Canadian Red  
132 Chokeberry and Scotch pine from the list. The list attached to the packet is not the approved list, if  
133 approved by Planning Commission the updated list will be attached to the ordinance. The Planning  
134 Commission asked that we track feedback when the ordinance is put into practice.  
135

136 **Conclusion:** A motion was made by Aguallo and seconded by Weber to approve the proposed  
137 changes/additions to the Gateway Greenway Overlay zone 25-3-22.1 with correction to typo in Building  
138 Perimeter Walls section and Appendix A - updated tree list is attached. **"YEAS":** Weber, Chadwick,  
139 Zitterkopf, Aguallo, Westphal, Gompert, Huber, Wayman, and Estrada. **"NAYS":** None. **ABSTAIN:**  
140 None. **ABSENT:** None. Motion carried.  
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142 **ITEM 7B:** The Planning Commission opened a public hearing for a proposed ordinance amendment  
143 change of Chapter 25, Article 19 Amending Sections 25-19-18(2), 25-19- 29(2), and to clarify  
144 definitions in Sections 25-19.51.1, 25-19-66.1 & 25-19-77 relating to Floodways within the City of  
145 Scottsbluff and its Extra Territorial Jurisdiction.

146 City Staff met with FEMA representatives in the fall of 2014 regarding areas with the City's floodway  
147 and our requirements in the floodway. The changes will keep us in good standing with the National  
148 Insurance program. They reviewed our code and asked for a few changes/additions to our Floodway  
149 ordinance. In summary the changes added are:  
150 Section 25-19-18 (2) h – Review all subdivision proposals and other proposed new development,  
151 including manufactured home parks or subdivisions to determine whether such proposal will reasonably  
152 be safe from flooding.  
153 Reworded Section 25-19-29 – Standards for flood fringe overlay zone; manufactured homes part two (2)  
154 for clarification regarding elevation requirements. (Shall be elevated on a permanent foundation such that  
155 the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be  
156 securely anchored to an adequately anchored foundation system).  
157 Adding to definitions - 25-19-51.1 - Expansion to an existing Manufactured Home Park and Subdivision,  
158 25-19-66.1 - New Manufactured Home Park or Subdivision, and 25-19-77 - Violation.

159  
160 When the study is completed over the next year we hope to submit the information and have the  
161 Floodplain maps updated as they were last done in 1979 for the City. We are hoping to do a workshop in  
162 the future for Realtors and other interested parties on requirements within the floodways.

163  
164 **Conclusion:** A motion was made by Westphal and seconded by Weber to make a positive  
165 recommendation to City Council to approve the proposed ordinance amendment changes of Chapter 25,  
166 Article 19 Amending Sections 25-19-18(2), 25-19- 29(2), and to clarify definitions in Sections 25-  
167 19.51.1, 25-19-66.1 & 25-19-77 relating to Floodways within the City of Scottsbluff and its extra  
168 territorial jurisdiction. “YEAS”: Weber, Chadwick, Zitterkopf, Aguallo, Westphal, Gompert, Wayman,  
169 Huber, and Estrada. “NAYS”: None. ABSTAIN: None. ABSENT: None. Motion carried.

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171 **ITEM 7C.** The Planning Commission opened a public hearing for proposed ordinance text change in the  
172 C-1 Zoning district revising 25-3-13 relating to principle permitted uses & special permit uses, 25-5-2  
173 related to parking requirements for residential uses and 25-7-38 relating to off street parking  
174 requirements and excepting condominium used in the Central Business District which is located along  
175 Broadway, Avenue A, and 1<sup>st</sup> Avenue from 14<sup>th</sup> Street north to 20<sup>th</sup> Street.

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177 City Staff had a request asking about a condominium final plat to allow separation of a business and  
178 residential unit in a building located in the C-1 zoning district. This has been done in the past in an O & P  
179 zoning district, and is an allowable use in several of our zoning districts but was not in the C-1 Central  
180 Business District on Broadway. The changes are the addition of 20.5 Condominium which will allow  
181 for condominiums of three or less units as a permitted use by right in the C-1 district. This will enable a  
182 person to apply for a condominium final plat allowing for separation within a building to allow separate  
183 units which can be sold separately. The units/structures will have to meet building, fire, and safety  
184 codes. The addition of 27.5 - Dwelling units, brings all the existing apartments in the C-1 zoning district  
185 into compliance with City code.

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187 The other changes bring the condominium parking and off street parking requirements into compliance  
188 meeting the requirements of the Nebraska Condominium Act. This change will give the condominiums  
189 the same parking rights as the other residential units in the Central Business District.

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191 **Conclusion:** A motion was made by Weber and seconded by Chadwick to make a positive  
192 recommendation to City Council to approve the revisions in 25-3-13 relating to principle permitted uses  
193 & special permit uses, 25-5-2 related to parking requirements for residential uses and 25-7-38 relating to  
194 off street parking requirements and excepting condominium used in the Central Business District



195 “YEAS”: Weber, Chadwick, Zitterkopf, Aguallo, Westphal, Gompert, Wayman, Huber, and Estrada.  
196 “NAYS”: None. ABSTAIN: None. ABSENT: None. Motion carried.

197  
198 **ITEM 8. Unfinished Business:** Updated the Planning Commission on the map for our comprehensive  
199 development plan allowing for large lot development in the extra territorial jurisdiction. City Council  
200 approved the ordinance for the changes in code and will have the three readings of the ordinance this will  
201 allow time for changes to be made to the proposed map. We have had a few property owners ask about  
202 adding other areas to the map. We will bring the map back to the Planning Commission if other areas are  
203 added for their approval and then we will forward to City Council for their approval.

204  
205 There being no further business, a motion to adjourn was made by Weber and seconded by Gompert. The  
206 meeting was adjourned at 6.55 p.m. “YEAS”: Gompert, Wayman, Weber, Westphal, Chadwick,  
207 Zitterkopf, Aguallo, Huber, and Estrada. “NAYS”: None. **ABSTAIN:** None. **ABSENT:** None.  
208 Motion carried.

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211 \_\_\_\_\_  
212 Becky Estrada, Chairperson

213  
214 Attest: \_\_\_\_\_  
215 Annie Urdiales