

## ORDINANCE NO. 2010-12

### **AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 2, ARTICLE IV, BY ADDING DIVISION 8 BOARD OF APPEALS; TO PROVIDE FOR THE REPEAL OF CONFLICTING SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

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

Section 1. There shall be created a Board of Appeals to serve as the Board of Appeals for the currently adopted International Property Maintenance Code, International Building Code, International Residential, Plumbing, Mechanical, and Energy Conservation Codes and Flood Plain Regulations.

Section 2. That Chapter 2, Article IV, of the Wayne Municipal Code is hereby amended by adding Division 8 which shall read as follows:

**Section 2-481 Application for Appeal.** Any person directly affected by a decision of the code official or a notice or order issued under the International Property Maintenance Code, the International Building Code, International Residential, Plumbing, Mechanical, and Energy Conservation Codes and Flood Plain Regulation Code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

- 1. Membership of Board.** The Board of Appeals shall consist of a minimum of six members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

**Alternate Members.** The chief appointing authority shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

**Chairman.** The board shall annually select one of its members to serve as chairman.

**Disqualification of Member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**Compensation of Members.** Compensation of members shall be determined by law.

2. **Notice of Meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.
3. **Open Hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.
  - a. **Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
4. **Postponed Hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
5. **Board Decision.** The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

**Records and Copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

**Administration.** The code official shall take immediate action in accordance with the decision of the board.

6. **Court Review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
7. **Stays of Enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after the passage, approval, and publication as provided by law.

PASSED AND APPROVED this 12<sup>th</sup> day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk