

VILLAGE OF EAGLE
BOARD OF TRUSTEES AGENDA
MAY 3, 2022
EAGLE FIRE & RESCUE DEPARTMENT – 705 S 1st Street
7:00 P.M.

--A COPY OF THE OPEN MEETINGS ACT IS AVAILABLE FOR PUBLIC INSPECTION—

--THE BOARD OF TRUSTEES RESERVES THE RIGHT TO GO INTO EXECUTIVE SESSION PER NRS 84-1410—

--PLEDGE OF ALLEGIANCE

PUBLIC HEARING CONTINUATION for the purpose of hearing testimony concerning a zoning change and amendment of the Eagle Zoning Map from AG (Agricultural) to RS (Residential Suburban) for ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska.

Open Public Hearing
Public Comment
Close Public Hearing

PUBLIC HEARING CONTINUATION for the purpose of hearing testimony concerning a Preliminary Plat / Subdivision Agreement for property consisting of ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska.

Open Public Hearing
Public Comment
Close Public Hearing

1. Discuss/possible action: Approval of a zoning change and amendment of the Eagle Zoning Map from AG (Agricultural) to RS (Residential Suburban) for ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska.
2. Discuss/possible action: Approval of a Preliminary Plat / Subdivision Agreement for property consisting of ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska.
3. Discussion: Water and Wastewater System Studies presentation by Snyder & Associates.
4. Report from Law Enforcement.
5. Report from Building & Zoning Administrator.
6. Open Forum.
7. Discuss/possible action: Consider the donation of two 2022 Family Pool Passes to Eagle PTE for Eagle Fun Night on May 13, 2022.

8. Discuss/possible action: Consider amendments to the Building Permit fee schedule for new community center savings.
9. Discuss/possible action: Set date to open the swimming pool for the 2022 season.
10. Discuss/possible action: Approve or deny minutes as typed for the previous meeting.
11. Discuss/possible action: Approve claims.
12. Report from Attorney.
13. Report from Clerk/Treasurer.

The Agenda is readily available for inspection at the Village Clerk's Office located at 747 S. 2nd Street, Eagle, Nebraska during regular business hours.

APPLICATION FOR A CHANGE OF ZONING
Eagle, Nebraska

Date 02/18/2022

Form must be filled out completely before acceptance of this application for processing. Please print.

Applicant's Name MDC Eagle One, LLC Telephone No. 402-558-2200
Applicant's Address 11550 I Street, Suite #200, Omaha, NE 68137
Present Use of Subject Property Agriculture
Desired Use of Subject Property Single Family Residential
Present Zoning AG Requested Zoning RS

Legal Description of Property Requested to be Rezoned _____
Eagles Landing, Lots 1 through 98, Inclusive and Outlots A and B, being a platting of Tax Lot 36, located in part of Tax Lot 22, in the east half of Section 19, Township 10 North

Area of Subject Property, Square Feet and/or Acres 33.80 acres
How is Adjoining Properties Used (Actual Use)

North AG South AG
East AG West AG

If Exhibits are furnished, please describe and enumerate. (Furnish Plot or Site Plan showing existing and proposed structures, easements, water courses, curb cutbacks, etc.)

The Zoning Administrator, who may be accompanied by others is hereby authorized to enter upon the property during normal working hours for the purpose of becoming familiar with the proposed situation.

Justification

You must justify your request. Questions 1 through 4 must be answered completely. Use separate sheet if necessary.

1. What is the general character of the area? Describe.
2. Can soil conditions support the kinds of development in the proposed zoning district? What is the soil classification of the area?
3. What type of sewer and water system will be used?
4. How will the proposed Zoning District affect traffic in the area? Will streets or roads need to be updated for access to the area? If yes, what will the requirements be?

Signature of Owner _____ or Signature of Agent _____

OFFICE USE ONLY

File No. _____ Fee paid Yes () No () _____

Date _____ Approved _____
Disapproved _____

Chair, Eagle Planning Commission.

Date _____ Approved _____
Disapproved _____

Chair, Village Board of Trustees

**APPLICATION FOR PRELIMINARY PLAT
EAGLE, NEBRASKA**

LEGAL DESCRIPTION AND GENERAL LOCATION

Eagles Landing, Lots 1 through 98, Inclusive and Outlots A and B, being a platting of Tax Lot 36, located in part of Tax Lot 22, in the east half of Section 19, Township 10 North

SUBDIVIDER

Name: MDC Eagle One, LLC
Address: 11550 I Street, Suite #200, Omaha, NE 68137

Telephone: () 402-558-2200

OWNER

Name: MDC Eagle One, LLC
Address: 11550 I Street, Suite #200, Omaha, NE 68137

Telephone: () 402-558-2200

VILLAGE USE ONLY

RECEIPT NO: _____

DATE: _____

PRELIMINARY PLAT #: _____

FEE PAID \$ _____

AGENT (Authorized to act on Subdivider's behalf):

Name: _____

Address: _____

Telephone: () _____

ANY OTHER ASSOCIATES:

Name: Lamp Rynearson (Engineer)

Address: 14710 W. Dodge Road, Suite 100, Omaha, NE 68154

Telephone: () 402-496-2498

NAME OF PRELIMINARY PLAT: Eagles Landing NUMBER OF LOTS: 98

1. Does the subdivider have any interest in the land surrounding the preliminary plat? Yes ___ No X. If yes, please describe the nature of such interest: _____

2. Will the preliminary plat require any zoning or other action (rezoning, Clustered/Mixed Use, conditional use, or vacations) to complete the development? Yes X No ___. If yes, please describe the nature of the action: Rezoning from AG to RS.

3. Does the preliminary plat deviate from the requirements of the Subdivision Regulations of the Village of Eagle or the Village's Design Standards? Yes X No ___. If yes, please state each deviation, how the proposal meets the intent of the subdivision ordinance and why the proposal should be accepted (additional sheets may be added): Requesting a waiver of the maximum block length. Requesting a waiver of the requirement for a minimum of two vehicular access points.

4. Is any part of the land within the preliminary plat within a flood plain? Yes ___ No X. If yes, please include the following information: Hydrological and grade information to determine frequency and extent of inundation of flood waters; location of proposed use and type of use; areas of habitation and employment to include location, size and floor elevation of any structures, location and elevation of parking areas, use, location and elevation of open space; all plans and other information conform to Development Standards; limits of the flood plain; amount of Fill Material brought into the flood plain; a certificate that grading will not result in any increase in the flood plain. (Additional sheets may be added).

Applicant's Signature: _____

Date: _____

Building Permit Fee Comparison Study

Study based on new residential dwelling with total improvement value of \$250,000 - Study does not include refundable deposits

| <u>Municipality</u> | <u>Permit Fee</u> | <u>Utility Fees</u> | <u>Driveway/Approach/Sidewalk Fees</u> | <u>Impact Fees</u> | <u>Total Fee</u> |
|---------------------|-------------------|---------------------|--|--------------------|-------------------|
| Ashland | \$2,284.70 | \$1,300.00 | INCLUDED IN PERMIT FEE | \$1,875.00 | \$5,459.70 |
| Bennet | \$525.00 | \$200.00 | \$0.00 | \$0.00 | \$725.00 |
| Eagle | \$1,833.75 | \$1,250.00 | \$78.00 | \$0.00 | \$3,161.75 |
| Hickman | \$1,227.74 | \$2,275.00 | \$100.00 | \$3,250.00 | \$6,852.74 |
| Louisville | \$1,833.75 | \$1,650.00 | \$80.00 | \$0.00 | \$3,563.75 |
| Waverly | \$1,058.00 | \$600.00 | \$100.00 | \$0.00 | \$1,758.00 |

Louisville: All building permit and related fees for residential dwellings and accessory structures inside city limits are waived

VILLAGE OF EAGLE

April 18, 2022

The Village Board of Trustees met in regular session at 7:00 p.m. on April 18, 2022 with Surman, Meier, Moore and Caylor present. Weyers was absent. The Agenda items listed thereon were sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. The Chairperson, at the beginning of the meeting, informed the public about the location of the posted current copy of the Open Meetings Act. Chairperson Surman named the three (3) areas where the agenda was posted as follows: Eagle Municipal Building, Eagle Fire & Rescue Department and Eagle Municipal Park. The Pledge of Allegiance was recited.

Chairperson Surman opened the public hearing at 7:01 p.m. for the purpose of hearing testimony concerning a zoning change and amendment of the Eagle Zoning Map from AG (Agricultural) to RS (Residential Suburban) for ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska. The Eagle Planning Commission met on April 6, 2022 and approved the zoning change request by a vote of 4-1 contingent upon the approval of a final plat and subdivision agreement to be heard at a later date. Terry Caddy (Planning Commission Chair) said 22 different items were discussed pertaining to the zoning change request; these items included substandard lot sizes and street width/extension recommendations. Surman asked if there were any comments or questions from the public. There were no comments or questions from the public.

The public hearing was closed at 7:05 p.m.

Chairperson Surman opened the public hearing at 7:06 p.m. for the purpose of hearing testimony concerning a Preliminary Plat / Subdivision Agreement for property consisting of ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska. The Eagle Planning Commission met on April 6, 2022 and tabled the approval of a Preliminary Plat / Subdivision Agreement until April 27, 2022 by a vote of 5-0. Terry Caddy (Planning Commission Chair) discussed some of the key takeaways from the public hearing, including: The intent for the development to own and maintain the sanitary sewer system, including the lift station, from the outfall line to the connection point on Olivia Drive; the developer's expectation that the Village run a water main from the nearest connection point along Olivia Drive to Eagle Road to service the development; the desire of the developer to have the Village operate the water system inside the development but not have the responsibility for associated repair work; park area requirements; installation of sidewalks; and street naming. Moore said the developer's intent is to create a Sanitary and Improvement District (SID) on this property and asked if there is an estimated timeframe as to when they could potentially be annexed into the Village. Caddy said representatives

of the developer estimate it will take 12-15 years to have the infrastructure debts paid down. Surman said many decisions cannot be made on this development until the Phase II Water & Sewer Studies are received from the Village Engineer. Surman asked if there were any comments or questions from the public. There were no comments or questions from the public.

The public hearing was closed at 7:16 p.m.

Motion by Moore, second by Meier, to table the approval of a zoning change and amendment of the Eagle Zoning Map from AG (Agricultural) to RS (Residential Suburban) for ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska until the May 3, 2022 board meeting. Voting: Ayes – 4. Motion carried.

Motion by Moore, second by Caylor, to table the approval of a Preliminary Plat / Subdivision Agreement for property consisting of ± 33.798 acres located in Tax Lot 36, located in part of Tax Lot 22, in the East Half of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska until the May 3, 2022 board meeting. Voting: Ayes – 4. Motion carried.

Open Forum – Atley Johnson (725 G St.) requested permission to spray paint and stencil addresses on curbs alongside private property at the property owner's request and expense. The Village Board agreed to the proposal and granted permission to proceed. Moore said the Eagle Park & Recreation Commission meeting scheduled for April 12, 2022 was cancelled due to severe weather warnings in the area. Surman said he identified one particular off-road vehicle in town that is larger than some SUV's hauling more passengers than what the Village's ordinance allows; he is unsure what else can possibly be done to adequately enforce this new law. Moore said he has noticed several off-road vehicles operating on the streets without proper licensing, and despite many proponents of the law claiming they would assist the Village in policing this matter; it has yet to be seen.

Chairperson Surman read Ordinance 2022-03 as follows:

ORDINANCE NO. 2022-03

AN ORDINANCE OF THE VILLAGE OF EAGLE, CASS COUNTY, NEBRASKA, TO AMEND CHAPTER 10, ARTICLE 3 OF THE MUNICIPAL CODE OF THE VILLAGE OF EAGLE, NEBRASKA AS THE SAME RELATES TO BUSINESS REGULATIONS TO PROVIDE REGULATIONS FOR MOBILE FOOD VENDORS; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith; TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, PROVISION OR PORTION FOUND UNCONSTITUTIONAL OR INVALID; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED AND SHALL BE IN FULL FORCE AND TAKE EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL, AS PROVIDED BY LAW AND

AS PROVIDED HEREIN; AND TO PROVIDE THAT THE PROVISIONS OF THIS ORDINANCE SHALL BECOME AND BE MADE A PART OF THE MUNICIPAL CODE OF THE VILLAGE OF EAGLE, NEBRASKA, AND THE SECTIONS OF THIS ORDINANCE MAY BE RENUMBERED TO ACCOMPLISH SUCH INTENTION.

Motion by Moore, second by Caylor, to amend Ordinance 2022-03 by removing the exemption of "the sale or offer of sale of food by non-profit groups or at an event sponsored by a non-profit group" from the definition of a Mobile Food Vendor. Voting: Ayes – 4. Motion carried.

Motion by Moore, second by Caylor, to accept the final reading of Ordinance 2022-03 as amended. Voting: Ayes – Meier, Caylor, Moore. Nays – Surman. Motion carried.

Motion by Moore, second by Meier, to adopt Ordinance 2022-03 as amended. Voting: Ayes – Caylor, Meier, Moore. Nays – Surman. Motion carried.

Motion by Moore, second by Caylor, to approve minutes as typed for the previous meeting. Voting: Ayes – 4. Motion carried.

The meeting was adjourned at 8:19 p.m.

Nick Nystrom
Village Clerk

John Surman
Chairperson

VILLAGE OF EAGLE

April 18, 2022

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Report from Fire & Rescue – Makinsey Lonergan (Rescue Captain) reported 3 rescue calls, 2 fire calls and 1 car accident since the March 21, 2022 board meeting. Surman asked if there are any long-term plans being considered by the department for a new facility. Lonergan said not at this time; the majority of current efforts have been on developing personnel, training and obtaining new equipment. Surman said he would encourage the department to begin developing a vision for a new facility in the near future.

Open Forum – Atley Johnson (725 G St.) requested permission to spray paint and stencil addresses on curbs alongside private property at the property owner's request and expense. The Village Board agreed to the proposal and granted permission to proceed. Moore said the Eagle Park & Recreation Commission meeting scheduled for April 12, 2022 was cancelled due to severe weather warnings in the area. Surman said he identified one particular off-road vehicle in town that is larger than some SUV's hauling more passengers than what the Village's ordinance allows; he is unsure what else can possibly be done to adequately enforce this new law. Moore said he has noticed several off-road vehicles operating on the streets without proper licensing, and despite many proponents of the law claiming they would assist the Village in policing this matter; it has yet to be seen.

Chairperson Surman read Ordinance 2022-03 as follows:

ORDINANCE NO. 2022-03

AN ORDINANCE OF THE VILLAGE OF EAGLE, CASS COUNTY, NEBRASKA, TO

AMEND CHAPTER 10, ARTICLE 3 OF THE MUNICIPAL CODE OF THE VILLAGE OF EAGLE, NEBRASKA AS THE SAME RELATES TO BUSINESS REGULATIONS TO PROVIDE REGULATIONS FOR MOBILE FOOD VENDORS; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, PROVISION OR PORTION FOUND UNCONSTITUTIONAL OR INVALID; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED AND SHALL BE IN FULL FORCE AND TAKE EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL, AS PROVIDED BY LAW AND AS PROVIDED HEREIN; AND TO PROVIDE THAT THE PROVISIONS OF THIS ORDINANCE SHALL BECOME AND BE MADE A PART OF THE MUNICIPAL CODE OF THE VILLAGE OF EAGLE, NEBRASKA, AND THE SECTIONS OF THIS ORDINANCE MAY BE RENUMBERED TO ACCOMPLISH SUCH INTENTION.

WHEREAS, Eagle has the authority to regulate mobile food vendors operating within the corporate limits of the Municipality;

WHEREAS, Mobile food vendors provide a beneficial service to the general public within Eagle while, due to their distinct manner of operation, also present substantial differences of circumstances from other food retailers. It is, thus, desirable to regulate, and require permits for mobile food vendors so that their transitory use of various properties can occur in a fair and safe manner, and so that public safety and welfare can be protected. The purpose of this chapter is to enact regulations to serve those goals.

NOW, THEREFORE, BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF EAGLE, NEBRASKA, as follows:

Section 1. Chapter 10, Article 3, Section 3-XXX of the Village of Eagle, is added as indicated:

§10-3XX DEFINITIONS

For the purpose of this chapter the following terms shall have the meanings respectively ascribed to them:

Food: Shall mean any raw, cooked, or processed edible substance or beverage used or intended for use or for sale in whole or in part for human consumption.

Mobile Food Vendor: Shall mean a person who travels from place to place selling or offering for sale food from a motor vehicle or trailer on public or private property. The following activities are excluded from such definition, and alone, do not subject a vendor to being covered under by such definition: (1) the sale or offer for sale of farm products produced or raised by such a vendor from land either occupied or cultivated by him or her; (2) the sale or offer of sale of homemade items, such as breads, pies, etc. for a Farmers Market event; the sale or offer of sale of food by non-profit groups or at an event sponsored by a non-profit group; or (4) a minor who is selling liquid

refreshments or homemade items on a temporary basis in a manner akin to a lemonade stand.

Permanent Food Establishment: A fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food, a concession stand, a convenience store, a grocery store, or an automotive fueling station.

Administrator: The Municipal Clerk/Treasurer, or his or her designee.

§10-3XX PERMIT REQUIRED

It shall be unlawful for any person to operate as a mobile food vendor within the corporate limits, whether on public or private property, unless such person complies with the requirements and regulations of this chapter, including holding a valid and active mobile food vendor permit issued by the municipality under this chapter.

§10-3XX APPLICATION

All permit applications under this chapter shall be filed with the Administrator on a form to be furnished by the municipality, which shall require, at a minimum, the following:

- (a) The name, address, phone number, and email address of the individual, partnership, firm, or corporation applying for a permit;
- (b) The vehicle license numbers and descriptions of all vehicles from which the applicant proposes to sell food;
- (c) The names of all persons expected to drive such vehicles;
- (d) A copy of all vehicle registrations;
- (e) Proof of motor vehicle insurance;
- (f) Proof of commercial general liability insurance for property damage and injury for no less than \$1,000,000.00 in the operation of said business and an agreement to hold the municipality harmless of all claims and damages;
- (g) A brief description of the foods to be sold;
- (h) The address of the physical location the vendor will set up trade, and:
 - a. for private property, written permission to sell or offer to sell food on said property;
 - b. for public property, a request for permission to the governing body setting for the requested location(s);
- (i) A copy of the State of Nebraska sales tax permit or proof of sales tax exemption; and
- (j) A copy of the applicant's permit issued by the Department of Agriculture of the State of Nebraska, as required by the Nebraska Pure Foods Act (Neb. Rev. Stat. secs. 81-2,239 to 81-2,292).

After receipt of the completed application and application fee, in the event permission is requested to operate on public property, the Administrator shall place the request on the next meeting agenda of the governing body for approval.

§10-3XX ISSUANCE OR DENIAL

- a. Upon receipt of a complete application for a permit pursuant to this chapter, the Administrator shall endeavor to determine if the statements contained within the application are true and correct and shall approve or deny such application within 30 days as provided herein (in the case of requests to operate on public property, only after the request has been granted by the governing body).
- b. Grounds for denial may include, but are not limited to, the following
 - i. A finding that the application is incomplete (the criteria set forth above is not met);
 - ii. Non-payment of applicable fees;
 - iii. A finding that the application is not in conformance with any applicable laws or this code including, but not limited to Chapter 10 of this code;
 - iv. A finding that the applicant has been convicted of two or more separate violations of the provisions of this chapter within the 12 months preceding the submission of a complete application.
- c. An application for a permit under this chapter shall be accompanied by a nonrefundable processing fee of \$30.00 per calendar year for each motor vehicle, trailer, cart or other piece of mobile equipment to be used.

§10-3XX TRANSFER

Permits issued under this chapter shall be nontransferable and no such permit shall be used at any time by any person other than the one to whom it was issued.

§10-3XX EXHIBITION OF PERMIT

Vendors shall exhibit their permit at all times when operating within the corporate limits of the municipality or upon the request of any Municipal official, Municipal employee, or customer.

§10-3XX RENEWAL

A permit issued under this chapter shall expire on December 31st of each year. The permittee shall renew the permit for the following year by filing with the Municipal Clerk prior to expiration. The renewal shall be on a form provided by the Municipal Clerk and shall include payment of a renewal fee of \$15.00 per year for each motor vehicle, trailer, cart or other piece of mobile equipment to be used.

§10-3XX SALES REGULATIONS

A mobile food vendor shall:

- a. have in full force and effect (1) a permit issued by the Municipal Clerk as provided herein, (2) a sales tax permit from the State of Nebraska (or show valid exemption), (3) a permit issued by the Department of Agriculture of the State of Nebraska, as required by the Nebraska Pure Food Act, (4) a motor vehicle liability insurance policy and be able to exhibit proof of such policy upon request; and (5) commercial general liability insurance for the operation of said business and be able to exhibit proof of such policy upon request.
- b. only sell or offer to sell food on private property that is zoned for commercial or industrial use, with written consent from the property owner, *or* only sell or offer to sell food on municipal public property as provided herein, holding the municipality harmless of all claims and damages, whichever applies;
- c. vend only when the vendor's truck is lawfully parked or stopped;
- d. vend only from the side of the truck that is away from moving traffic;
- e. comply with all local ordinances regulating noise;
- f. maintain in operable condition all fire suppression equipment or devices as required by local, state, or federal law;
- g. provide trash receptacles for the collection of trash and recyclable materials;
- h. pick up and properly dispose of any trash, litter, or recyclable materials prior to leaving a location;

A mobile food vendor shall not:

- a. sell or offer to sell alcoholic drinks;
- b. sell or offer to sell food on private property zoned for residential use;
- c. sell or offer to sell food from a vehicle located in a public right-of-way;
- d. sell or offer to sell food from a vehicle located on a street or street parking stall unless the street is closed for a special event, with approval from the Municipal Board;
- e. sell or offer to sell food on county public property, school public property, or natural resource district public property without written consent of an authorized representative of said entity;
- f. vend to a person standing in the roadway;
- g. vend on state highways;
- h. dispose of any trash, litter, recyclable materials, or food waste (including grease) in public trash or recycling containers; or
- i. dump grease, waste, food waste, waste water, or grey water on the ground or in the storm sewers.

§10-3XX OPERATING ON MUNICIPAL PROPERTY

To operate on municipal property, a mobile food vendor must obtain permission from the governing body. A permit to operate on municipal property does not create a

property interest in the location. Mobile food vendors are only allowed the opportunity to park and operate on the following municipal property:

- a. The northern or eastern portion of the lot located east of the Eagle Municipal Pool (Eagle-OT lots 1-6 of block 13); or
- b. The southern portion of the Eagle Municipal Office parking lot located at 747 S. 2nd Street; or
- c. Any other location specifically authorized by the governing body.

If the vendor has failed to receive permission to locate on public property, any authorized official or employee of the municipality may order a mobile food vendor to move or leave from public property. If the vendor has received permission, the vendor may be asked to remove or leave the public property for the following reasons: revocation/suspension issued by the Administrator; violation of zoning, local or state law, emergency necessity on the part of the Municipality, or the Municipality requires the use of the space for governmental purpose. No vehicles or other auxiliary equipment used by a mobile food vendor shall be left or parked on municipal property for more than 12 hours. The municipality may tow or otherwise move a mobile food vendor's vehicle or other auxiliary equipment if it presents a danger to public safety, in the event of revocation/ suspension of the permit, in the case of public emergency or requirement of use of the space for governmental purpose and only after request has been made of the vendor to remove and the mobile food vendor fails to remove the same.

§10-3XX HOURS OF OPERATION

Mobile food vendors are only permitted to operate between the hours of 7:00 a.m. and 12:00 midnight, seven days a week.

§10-3XX REVOCATION OR SUSPENSION

Grounds: A permit issued under this chapter may be revoked or suspended by the Administrator for any of the following reasons:

- a. Any fraud, misrepresentation, or false statement contained in the application for a permit;
- b. Any fraud, misrepresentation, or false statement made in connection with the selling of food or operation of the business;
- c. Any violation of this chapter or any applicable laws or provisions of the Eagle Municipal Code or any agency or department of the State of Nebraska, or a violation of Nebraska law;
- d. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public; or
- e. Upon conviction of two or more separate violations of this chapter within any consecutive 12-month period. For purposes of this section, conviction shall mean any finding of guilt or liability on the part of the mobile food vendor by a

court of competent jurisdiction, and shall include any conviction that has previously been set aside.

Notice: To revoke or suspend a license, the Administrator shall provide written notice to the permit holder stating the revocation or suspension action taken, the grounds for such action, and the availability of an appeal under this section. Such notice shall be sent by regular U.S. mail or by certified mail (although return receipt is not required to prove service) to the license holder's address as stated in his/her/its application.

Appeal: A permit holder aggrieved by the decision of the Administrator under this section may file an appeal in writing with the Municipal Clerk within 5 business days of the decision, to be heard before the governing body.

Re-application: A person/entity whose license has been revoked under this chapter may not re-apply for a new license for a period of 12 months after the effective date of the revocation.

§10-3XX PENALTY

It shall be unlawful for any person to violate the provisions of this chapter. In addition to revocation as provided herein, any violation shall be punishable as provided in the penalty article of this chapter.

Section 2. That the Chair and the appropriate Department, whether one or more, of the Village of Eagle, Nebraska, are hereby authorized and directed to implement this Ordinance.

Section 3. That all Ordinances and parts of Ordinances passed and approved prior to the passage, approval, and publication of this Ordinance, in conflict herewith, are hereby repealed.

Section 4. That should any section, paragraph, sentence of this Ordinance hereby adopted be declared for any reason invalid, it is the intent of the Chair and Governing Body of the Village of Eagle, Nebraska, that it would have passed all other portions of this Ordinance independent of the elimination here from of any such portion as may be declared invalid.

Section 5. That this Ordinance shall be published within the first 15 days after its passage and approval either in pamphlet form or by posting in three public places in the Village of Eagle, Nebraska, and shall be in full force and take effect on the 15th day from and after its passage, approval, and publication, as provided herein.

Section 6. That it is the intention of the Chair and Governing Body of the Village of Eagle, Nebraska, and it is hereby ordained that the provisions of this Ordinance shall amend the Municipal Code of the Village of Eagle, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

Discussion: Moore said he spoke with the Village Attorney after the last meeting regarding the concern that the definition of Mobile Food Vendor excludes, "the sale or offer of sale of food by non-profit groups or at an event sponsored by a non-profit group". The recommendation from the Village Attorney was that if this is a concern, non-profit groups or non-profit group events could be stricken from exemption in the definition; instead the Village Board could consider waiving the permit fee for these groups. Moore said this means non-profit groups would need to apply for a permit and obtain approval from the Village Board before operating on public property; the Village Board could then decide if they wish to waive the associated permit fee. Surman said he would still argue that this ordinance is unenforceable; for instance, if a mobile food vendor is allowed to operate between the hours of 7:00 a.m. and midnight, nobody will be around to monitor the sales on public property; Village staff only operates until 4:00 p.m. Monday through Friday. Moore asked if setting a separate set of operating hours on public property would help ease this concern. Surman said no; his bottom line is the ordinance is still unenforceable and amending the hours of operation will not change this. Moore requested this item of discussion be tabled and moved down the agenda until he has time to consider an amendment to the ordinance. Surman accepted this request.

Discuss/possible action: Consider proposals for new playground equipment on the west side of Eagle Municipal Park – Two proposals were received for new playground equipment on the west side of Eagle Municipal Park from American Playground and AAA State of Play. The associated installation charges by AAA State of Play have not yet been received. Elizabeth Umshler was present on behalf of the Eagle Park & Recreation Commission. Meier said he was under the impression that Frisbee golf baskets were going to be included in the proposals. Umshler said Frisbee golf baskets will be a separate proposal; this is strictly to replace the old playground equipment on the west side of the park. Meier said he does not see any removal costs of the existing playground equipment in the proposals. Umshler said she still needs to follow up on removal costs; the proposals tonight are not yet finalized but are instead being offered to the Village Board as an idea of what is being considered. Umshler said she would tend to lean towards the proposal from AAA State of Play, depending on their installation costs, because they are reducing the cost of the equipment by \$5,000; additionally, American Playground would be using AAA State of Play's equipment in their proposal. Caylor issued concerns with a bond not being included in the proposals and how she would like to ensure the work gets completed in a timely manner; the proposal from American Playground does not include prevailing union dues which create a risk for increased expenses incurred; the lack of removal, grading, demolition and survey costs included; and the need to contact the Army Corps of Engineers to discuss that equipment will be installed near the runoff area in the park. Moore said he does not see where survey costs will be necessary when the Village owns the entire park area and he also does not believe there is any requirement to contact the Army Corps of Engineers on this type of project. Caylor said if something happens with heavy equipment being operated in the area she feels it would be best if the Army Corps of Engineers at least knew a project was going to

be happening. Surman said as long as no changes are being made to the drainage ditch there would be no need to contact the Army Corps of Engineers. Terry Caddy asked what age group of children the equipment is being selected for and whether any of it is ADA-compatible. Umshler said the target age group is 2-13; ADA-compatible equipment is quite expensive, and although the Eagle Park & Recreation Commission has weighed this idea for the future, this current equipment will not meet those standards. Moore said equipment can be purchased that is ADA accessible; however, until there is a method to access the equipment (i.e. concrete sidewalks) it is just not feasible at this time. Caylor asked if any drawings or sets of plans have been included with the proposals to determine the location of equipment. Umshler said she is still waiting for this piece of the proposal. Moore asked if there was a drawing available from the time when Caylor served on the Park & Recreation Commission and was researching proposals. Caylor said the company she worked with was in the process of drawing up a proposal when she was removed from the commission. Moore asked if there is a reason the Park & Recreation Commission never received the drawing. Caylor said she stopped pursuing the request upon her removal from the commission. Umshler was directed to continue in her efforts in obtaining full proposals for new playground equipment on the west side of Eagle Municipal Park. Agenda item tabled until a future board meeting.

Surman asked if Moore has had enough time to consider an amendment to Ordinance No. 2022-03. Moore said yes.

Motion by Moore, second by Caylor, to amend Ordinance 2022-03 by removing the exemption of "the sale or offer of sale of food by non-profit groups or at an event sponsored by a non-profit group" from the definition of a Mobile Food Vendor. Voting: Ayes – 4. Motion carried.

Motion by Moore, second by Caylor, to accept the final reading of Ordinance 2022-03 as amended. Voting: Ayes – Meier, Caylor, Moore. Nays – Surman. Motion carried.

Motion by Moore, second by Meier, to adopt Ordinance 2022-03 as amended. Voting: Ayes – Caylor, Meier, Moore. Nays – Surman. Motion carried.

Discuss/possible action: Consider amendments to the Building Permit fee schedule for new community center savings – Surman read into the public record an email from the Village Attorney which read, in part, that she does not believe placing a community center fund line item on a building permit is necessarily authorized in state statute; alternately, however, the Village Board may increase the base building permit fee (to be excluded from the percentage calculation of the Building Inspector's fee) and informally earmark the additional funds to a community center savings account. Surman said these funds would not necessarily be protected from other uses by future Village Boards; unless, however, a sinking fund is created which would require an election to implement. Moore said the biggest challenge the Village has always faced with trying to get a new community center is having matching funds available for grants; if the Village Board is still interested in having a community center

someday, this may be one mechanism that can assist in the process of savings. Terry Caddy said if you add up the amount of new construction proposed in the area based on the concept plans developers have shared, you can count on a pretty significant amount of money to go towards matching grant funds in the future. Moore said the only concern he has with increasing the building permit fees is whether or not it will be a deterrent and discourage development; he would like to see a permit fee comparison with other neighboring communities before electing to move forward with any proposals. Nystrom offered to work on putting together a spreadsheet comparing Eagle's building permit fees to those in neighboring communities to share with the Village Board. Moore asked if the Village Board is generally in favor of at least looking into the option of increasing building permit fees. The Village Board was generally in favor. Surman said he will discuss this matter with the Building Inspector as well prior to any action being considered. Agenda item tabled until the May 3, 2022 board meeting.

Report on Streets and Maintenance – Surman said the Village Engineer has submitted road rehabilitation plans and construction documents for Parkview Avenue and Wenzel Circle for review. Moore asked if the fiber optic line in the Eagle Estates park space was ever buried underground. Caddy said the line was still above ground the last time he was up there, but he will check again. Caddy said the pool has been pumped out and washed once; it will be refilled again soon to run the new pump and hopefully identify where the water leaks are located. Caddy said trees have been trimmed at the park ahead of lawn mowing season.

Report on Wells and Sewer – Caddy said two loads of sludge were hauled out of the WWTP and a couple of UV light sensors were ordered. Caddy suggested the Village Board consider re-evaluating the drought emergency contingency plan ahead of the summer months; the current trigger number is 175,000 gallons of water per day for three consecutive days; however, with all of the new construction that has occurred, it is likely necessary to increase that number. Nystrom said he will work on providing a recommendation to the Village Board within the next few weeks.

Motion by Moore, second by Caylor, to approve minutes as typed for the previous meeting. Voting: Ayes – 4. Motion carried.

Report from Committees and Boards – Caylor said the Health Board will meet on April 28, 2022 at 1:00 p.m. Moore said the Park Board is working to establish a suggested opening date for the swimming pool and is still in the process of accepting applications for pool employees.

The meeting was adjourned at 8:19 p.m.

I, the undersigned Village Clerk for the Village of Eagle, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Chair and Board of Trustees on April 18, 2022 at 7:00 p.m. and that all of the subjects included in the foregoing proceedings were contained in the Agenda for the meeting,

kept continually current and readily available for public inspection at the office of the Village Clerk; that such subjects were contained in said Agenda for at least twenty-four (24) hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten (10) working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meeting of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Seal

Nick Nystrom
Village Clerk

John Surman
Chairperson