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## **CHAPTER 9 – BUILDING REGULATIONS**

### **Article 1 – Building Inspector**

## **SECTION 9-101: POWER AND AUTHORITY**

The building inspector shall be the city official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He shall inspect all buildings repaired, altered, built, or moved in the City as often as necessary to insure compliance with all city ordinances. He shall have the power and authority to order all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He shall issue permission to continue any construction, alteration, or relocation when he is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by the building inspector.

## **SECTION 9-102: RIGHT OF ENTRY**

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place for the purpose of making official inspections at any reasonable hour.

## **SECTION 9-103: TIME OF INSPECTION**

The building inspector, upon notification from the permit holder or his agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed, or shall notify the permit holder, or his agent that the work fails to comply with the requirements of the city code: foundation; framing; rough-in utilities; finished utilities; final. It shall be unlawful for any person to do work, or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

## **SECTION 9-104: APPEAL FROM DECISION**

A. In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector; that the time allowed for compliance with any order of the building inspector is too short; or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and the building inspector, the owner, his agent, or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector.

B. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

## **SECTION 9-105: BARRICADES AND LIGHTS**

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the City to have during such work all excavations, open basements, building materials, and debris protected by suitable guards or barricades by day, and by warning lights at night. The failure, neglect, or re-

fusal of said persons to erect such guards shall constitute a violation of this section and the building inspector or city law enforcement officers shall stop all work until guards are erected and maintained as required.

## **Article 2 – Building Permits**

### **SECTION 9-201: PERMIT; APPLICATION**

A. No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building, structure, swimming pool, or parking lot in the City or within one mile of the corporate limits of the City or cause the same to be done without first obtaining a building permit from the city clerk. A separate building permit is required for each building or structure. A building permit for a building or structure may also permit work on a swimming pool, fence, and parking lot if the plans for the swimming pool, fence, or parking lot are approved by the City in conjunction with issuance of the building permit.

B. The application for such building permit shall be in writing on a form furnished by the city clerk and shall set forth: the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be required thereon. The application, plans, and specifications so filed with the city clerk shall be checked and examined by a designee of the City Council, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, said designee shall authorize the city clerk to issue the said applicant a permit upon the payment of the permit fee and inspection fees as provided in Section 9-202.

C. Building permits will not be required for the following: (1) cases, counters, or partitions not over 5 feet 9 inches high; (2) retaining walls which are not over 4 feet in height, unless supporting a surcharge or impounding flammable liquids; (3) painting, papering, and similar finish work; (4) window awnings supported by an exterior wall; (5) shingling and residing.

D. Unless otherwise exempted by this code, separate plumbing, electrical, and mechanical permits will be required for the above exempted items. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

E. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

### **SECTION 9-202: BUILDING PERMIT FEES; INSPECTION FEES**

For purposes of determining the building permit fee, new building valuation will be based on valuation per square foot or total valuation. For existing structures, the fee will be based on costs of remodeling or renovation. In addition to such permit fees, fees will also be charged for each inspection. All such fees shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during

office hours.

### **SECTION 9-203: INFRASTRUCTURE FEES**

In addition to the building permit fee set forth herein, there shall be an infrastructure development fee imposed on each lot on which a building permit for a structure utilizing sewer or water is being obtained for the first time. Such fee shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. (Ord. No. 04-6, 7/27/04)

### **SECTION 9-204: DUPLICATE TO COUNTY ASSESSOR**

Whenever a building permit is issued for the erection, alteration or repair of any building within the City's jurisdiction and the improvement is \$2,500.00 or more, a duplicate of such permit shall be issued to the county assessor. (Neb. Rev. Stat. §18-1743) (Am. by Ord. No. 04-15, 11/9/04)

### **SECTION 9-205: VARIANCE NOT PERMITTED**

It shall be unlawful for any person to whom a permit has been issued to construct or repair a building within the corporate limits of the City, to vary in any manner from the plans and specifications submitted to the City in the construction or repair authorized so that such construction or repair does not conform to the ordinances of the City.

### **SECTION 9-206: LIMITATION**

If the work for which a permit has been issued shall not have begun within six months of the date thereof, or if the construction shall be discontinued for a period of six months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

### **SECTION 9-207: BUILDING WITHOUT PERMIT; NUISANCE**

Every building or other structure hereafter erected, remodeled or moved into or within said city without a permit therefor, as herein required, or which is not constructed, remodeled or located in accordance with the permit granted and issued therefor, shall be deemed and considered to be a public nuisance and may be abated or removed by the City at the expense of the owner.

### **SECTION 9-208: BUILDING DESTRUCTION; NUISANCE; DEPOSIT**

It shall be the duty of the owner, lessee or tenant intending the destruction of any building within the City to post a deposit with the city clerk prior to such destruction. Such deposit will be refunded upon payment of all damages to city property occasioned by such destruction and any cleanup work resulting from such destruction. In the event that debris remains on the building permit site for more than six months after the issuance of the permit, which shall constitute a nuisance as determined by the building inspector, then the deposit shall be forfeited and shall be applied to offset the cleanup by the City. Such deposit shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours.

## **Article 3 – Building Moving**

### **SECTION 9-301: REGULATIONS**

A. It shall be unlawful for any person, firm, or corporation to move any building or structure within the City without a written permit to do so. Application may be made to the city clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the City Council may require. The application shall be accompanied by a certificate to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The city clerk shall refer the said application to the person designated by the City Council for approval of the proposed route over which the said building is to be moved. Upon approval of the designee of the City Council, the city clerk shall then issue the said permit; provided that:

1. The permit is issued to a registered building mover as provided in Section 9-303 below; or
2. Prior to the granting of any permit, a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the City Council and conditioned upon moving said building without doing damage to any private or city property is filed with the city clerk.

B. No moving permit shall be required to move a building that is ten feet wide or less, and 20 feet long or less, and when in a position to move, 15 feet high or less.

C. In the event it will be necessary for any licensed building mover to interfere with the telephone or electric system poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the City, notice in writing of the time and route of the said building moving operation shall be given to the various city officials in charge of the city utility departments who shall proceed on behalf of the City and at the expense of the mover to make such disconnections and do such work as is necessary. Unless a new building is to be moved onto or constructed upon the old foundation, all foundations of buildings moved from real estate shall be removed and the ground filled in level with the surrounding ground.

(Neb. Rev. Stat. §19-1404, 39-6,177 to 39-6,180, 39-6,184, 77-1725) (Am. by Ord. No. 01-01, 3/27/01)

### **SECTION 9-302: COMPLETION OF MOVE; DEPOSIT**

At such time as the building moving has been completed, the person designated by the City Council shall inspect the premises and report to the city clerk as to the extent of damages, if any, resulting from the said relocation and whether any city laws have been violated during the said operation. Upon a satisfactory report from the person designated by the Council, the city clerk shall return the corporate surety bond, cash, or check deposited by the applicant who is not a registered building mover. In the event the

basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Council may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the City Council, or additional expense was incurred in removing and replacing any wires or apparatus of the electrical system, the Council may recover such excess expense by civil suit or otherwise as prescribed by law. (Am. by Ord. No. 01-01, 3/27/01)

### **SECTION 9-303: BUILDING MOVING DEFINED; REGISTRATION AND BOND**

A. The business of building moving as used in this article is hereby defined to mean and include the moving of any house, building or structure. It shall be unlawful for any person to carry on or engage in the occupation of house moving in the City without first being registered therefor, having complied with all the provisions of this article, or meeting the cash or bond requirements set forth in this article.

B. Any person desiring to engage in the business of building moving in the City, or within one mile thereof, shall file with the City an application for a registration in writing on a form furnished for that purpose. Said application shall be accompanied by a bond duly executed by both said applicant and a corporate surety company authorized by the state to do business in Nebraska, which bond shall be subject to the approval of the city clerk. Such bond amount shall be set by resolution of the City Council, on file at the office of the city clerk and available for public inspection during office hours.

C. The bond will be conditioned, among other things, that the applicant:

1. Will in all things strictly comply with all the provisions of the ordinances of the City relating to building moving and any and all conditions of the permit;
2. Will save, indemnify, and keep harmless the City from all liabilities, judgments, costs and expenses which may in anywise accrue against the City in consequence of the granting of such registration, or in consequence of any injury to persons or property resulting directly or indirectly from the exercise of the privileges in such registration granted;
3. Will pay to the City any and all damages which may be sustained to any pavement, road surface, curb, gutter, sidewalk, street crosswalk, traffic signal installation, traffic signals, power poles, power or utility lines, bridges, culverts, sewers, or other city property through the conduct of said applicant's house moving activities; and
4. Will also pay to the owner any and all damages caused in a like manner to any private property.
5. Will pay a fee to the building official for registration; such fee shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours.

D. In addition to the bond, the applicant for registration shall also be required:

1. At all times to maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy

form, as permitted by the city attorney, with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the city attorney for conformance with the provisions of this section.

2. At all times to keep on file with the building official a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State and approved by the city attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the City as an additional insured for the coverage required in subsection (D) (1) above, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring 30 days notice by mail to the building official before the insurer may cancel the policy for any reason, and upon request of the building official or the city clerk, a copy of any endorsements placed on such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter.

(Ord. No. 01-01, 3/27/01)

## **Article 4 – Adopted Codes**

### **SECTION 9-401: CODES; PURPOSE**

The purpose of these codes is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the City and within one mile of the corporate limits of the City and outside of any other organized city or village, and regulating certain equipment specified herein. The purpose of these codes is not to create or otherwise establish or designate any particular case or group of persons who will or should be especially protected or benefited by its terms.

### **SECTION 9-402: BUILDING CODE; ADOPTED BY REFERENCE**

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the *International Building Code*, including Appendix “C,” as published by the International Code Council, Inc., hereinafter referred to as the *International Building Code*, most recent edition, printed in book or pamphlet form, is hereby incorporated by reference, in addition to all amended editions and all other amendments thereto, as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the Building Code and all amendments thereto is on file at the office of the city clerk and is available for public inspection during office hours. The provisions of the Building Code shall be controlling throughout the municipality and its zoning jurisdiction. (Neb. Rev. Stat. §17-1001, 18-132, 19-902, 19-922) (Am. by Ord. No. 03-03, 5/27/03; 2009-6, 3/24/09)

### **SECTION 9-403: RESIDENTIAL CODE; ADOPTED BY REFERENCE**

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the *International Residential Code for One- and Two-Family Dwellings*, most recent edition as published by the International Code Council, Inc., printed in book or pamphlet form, is hereby incorporated by reference, in addition to all amended editions and all other amendments thereto, as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the International Residential Code and all amendments thereto is on file at the office of the city clerk and is available for public inspection during office hours. The provisions of the International Residential Code shall be controlling throughout the municipality and its zoning jurisdiction. (Neb. Rev. Stat. §17-1001, 18-132, 19-902, 19-922) (Ord. No. 03-04, 5/27/03; 2009-7, 3/24/09)

### **SECTION 9-404: PLUMBING CODE; ADOPTED BY REFERENCE**

To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection, and uses of materials in the installation of plumbing and heating, the *Lincoln Plumbing Code*, most recent edition, published by the mayor and City Council of the City of Lincoln, Nebraska, printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the Plumbing Code is on file at the office of the city clerk and is available for public inspection during office hours. The provisions of the Plumbing Code shall be controlling throughout the City and its zoning jurisdiction. (Neb. Rev. Stat. §17-1001, 18-132, 19-902, 19-922)

### **SECTION 9-405: ELECTRICAL CODE; ADOPTED BY REFERENCE**

To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances, the *National Electrical Code*, most recent edition, as recommended and published by the National Fire Protection Association, printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the Electrical Code shall be on file at the office of the city clerk and available for public inspection during office hours. The provisions of the Electrical Code shall be controlling throughout the City and its zoning jurisdiction. (Neb. Rev. Stat. §17-1001, 18-132, 19-902, 19-922)

### **SECTION 9-406: FLOODPROOFING CODES; ADOPTED BY REFERENCE**

The following publications are hereby adopted and incorporated into this code for reference to design standards and techniques only as they relate to floodproofing of approved buildings located in the flood hazard areas of the City:

A. *Elevated Residential Structures*, HUD-FLA-184, most recent edition, published by the U.S. Government Printing Office: 1976 0-222-193; and

B. *Floodproofing Non-Residential Structures*, F.E.M.A. Publication No. 102, most recent edition.



## SECTION 9-407: HOUSING CODE; ADOPTED BY REFERENCE

A. To provide certain minimum standards, provisions, and requirements to safeguard life, limb, health, property, and public welfare, and to protect neighborhoods from hazardous, blighting, and deteriorating influences or conditions that have a negative impact on area property values and discourage property owners to improve their properties by regulating and controlling the use and occupancy, location, and maintenance of all residential buildings and structures and premises within the City and within one mile of the corporate limits of the City, the *Lincoln Housing Code*, most recent edition, published by the mayor and City Council of the City of Lincoln, Nebraska, printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended additions as though printed in full herein insofar as said code does not conflict with state statutes. One copy of the Housing Code is on file at the office of the city clerk and is available for public inspection during office hours. The provisions of the *Lincoln Housing Code* shall be controlling throughout the City and its zoning jurisdiction.

B. All premises and all buildings or portions located thereon within the City and within one mile of the corporate limits of the City shall be adequately maintained in accordance with the Housing Code so as to be free of deterioration that endangers or is likely to endanger the life, limb, health, property, safety, or welfare of the public or occupants thereof. All exposed exterior surfaces, windows, and doors of buildings, structures, and the premises upon which they are located shall be adequately maintained so as not to present a deteriorated or blighted appearance.

C. "Inadequate maintenance of buildings" shall include but not be limited to the following:

1. Any building or portion thereof which is determined to be an unsafe building in accordance with the *Uniform Housing Code* (International Conference of Building Officials).
2. Buildings which for a period of six months or more are boarded up, left in a partial state of destruction, or left in a state of partial construction after expiration of a building permit for such construction.
3. Broken windows constituting hazardous conditions.
4. Unpainted buildings which have begun to dry rot, warp, or become infested with termites.
5. Buildings which have substantial and noticeable conditions of blight or deterioration.
6. Buildings which have cracked, chipped, flaking, peeling, or missing paint over 50% or more of any wall or face of the building.

D. "Inadequate maintenance of the premises" shall include but not be limited to the following:

1. Accumulations of debris, litter, rubbish, rubble, and similar materials or conditions.

2. Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating condition or storm damage constitute a health or safety hazard to persons in the vicinity thereof.
3. Sources of infestation.
4. Premises which have substantial or noticeable conditions of blight or disrepair.

(Ord. No. 99-13, 12/14/99)

## **Article 5 – Housing Discrimination Prohibition Policy**

### **SECTION 9-501: DISCRIMINATION CODE; ADOPTED BY REFERENCE**

It is hereby declared to be the policy of the City in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunities to all persons to live in decent housing facilities regardless of race, color, religion, sex or national origin and, to that end, to prohibit discrimination in housing by any persons. In order to effectuate this policy, the City has adopted a code prohibiting discrimination in housing. One copy of the most recent edition of said code shall be on file in the city clerk's office and available for public inspection during office hours. The provisions of the Anti-Discrimination Code shall be controlling throughout the City and throughout its zoning jurisdiction.

## **Article 6 – Penal Provision**

### **SECTION 9-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.