

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. FLOOD PREVENTION AND PROTECTION

Cross-reference:

*Mobile homes and trailer houses; noncompliance with requirements;
designated areas, see § 113.01*

Zoning regulations; manufactured homes; standards, see § 113.02

CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.01 ZONING AND SUBDIVISION REGULATIONS.

(A) (1) For the purpose of setting minimum standards to promote the public welfare, safety, morals, convenience, order, prosperity and general welfare of the community of the city and to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate provision of transportation, water, sewage, schools, parks and other public improvements, the zoning regulations, 2011, of the City of Alma, presented by Hanna: Keelan Associates, P.C. and approved by

the City Planning Commission, 2011, are hereby adopted. The adoption of such zoning regulations shall include any amendments thereto as may be made from time to time. Said zoning regulations, 2011, as well as such amendments, are hereby incorporated by reference in this division (A) as if set out in full. One copy of the zoning regulations shall be maintained by the municipal clerk at the city office and available for public inspection during regular office hours.

(2) The city, and certain properties within and up to one mile in all directions of its corporate limits, are hereby divided into zones, or districts, as shown on the official zoning map, 2011, which, together with all explanatory material and documentation is hereby adopted by reference, declared to be part of the zoning regulations, 2011, of the city and further declared to be part of this section. The official zoning map, 2011, shall be identified by the signature of the Mayor, attested to by the Municipal Clerk and bearing the seal of the city under the following words:

“This is to certify that this is the official Zoning Map, 2011, adopted December 21, 2011. The official zoning map of the area within the corporate limits and the planning jurisdiction are adjacent and one mile beyond the corporate limits of the City of Alma, Nebraska, together with all changes, amendments or additions thereto, shall be maintained in the office of the municipal clerk and available for inspection during regular office hours.”

(B) To provide for harmonious development of the municipality and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, light, air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience or prosperity; and insure conformance of subdivision plans with capital improvements programs of the municipality; and to secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance by subdividers and the Planning Commission and governing body, the Subdivision Regulations, 2011, for the City of Alma, and prepared by Hanna: Keelan Associates, F.C., approved by the City Planning Commission by this division (B), including any amendments thereto as may be made therein from time to time, are hereby incorporated by reference herein as if set out in full. One copy of the Subdivision Regulations, 2011, shall be kept on file with the Municipal Clerk and available for public inspection during regular office hours.

(1993 Code, § 9-701) (Ord. 07-078-23, passed 7-7-1998; Ord. 12-2111-1, passed 12-21-2011; Ord. 12-2111-2, passed 12-21-2011)

Statutory reference:

Related provisions, see Neb. RS 18-132, 19-922

§ 150.02 BUILDING INSPECTOR.

(A) *Building Inspector; power and authority.* The Building Inspector shall be the municipal official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He or she shall inspect all buildings repaired, altered, built or moved in the municipality as often as necessary to ensure compliance with all municipal ordinances. He or she shall have the power and authority to order

at the direction of the governing body, all work stopped on any construction, alteration or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the governing body, issue permission to continue any construction, alteration or relocation when the governing body 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.

(1993 Code, § 9-101)

(B) Building Inspector; 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. (1993 Code, § 9-102)

(C) Building Inspector; time of inspection. The Building Inspector, upon notification from the permit holder or his or her 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 or her agent that the work fails to comply with the requirements of the city code: foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking and backing is in place and all pipes, chimneys and vents are complete; and final inspection shall be made after the building is completed and ready for occupancy. 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.

(1993 Code, § 9-103)

(D) Building Inspector; appeal from decision. 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 or her 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 governing body shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the Building Inspector. 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.

(1993 Code, § 9-104)

Penalty, see § 150.99

§ 150.03 BUILDING PERMITS.

(A) Zoning permits; application.

Building Regulations

(1) *Zoning permit limitations; application.* Any contractor employed or any other person in the event a contractor is not employed prior to commencing or proceeding to erect, construct, enlarge, demolish or relocate any building or dwelling, or cause the same to be done shall file with the Municipal Clerk an application for a zoning permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application 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 requested thereon. The application, plans and specifications so filed with the Municipal Clerk shall be checked and examined by the Building Inspector and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable hereto, the Zoning Administrator shall authorize the Municipal Clerk to issue the said applicant a permit upon the payment of the permit fee set by resolution of the governing body. 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.

(2) *Zoning requirements.* In addition to the information required by division (A)(1) above, applicants for zoning permits shall also comply with the requirements of §415.05 of the city zoning regulations.

(3) *Action taken on the permit application.* The Zoning Administrator shall examine all applications for zoning permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within 30 days of receipt of the same. Upon approval and receipt of required fees, the Zoning Administrator and the zoning permit shall be promptly issued and shall affix his or her signatures to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the Zoning Administrator shall refuse to issue the permit, he or she shall state in writing on the plans the reasons for disapproval, affix his or her signature and mark the plans "Disapproved".

(4) *Appeal from approval or disapproval.* An appeal from approval or disapproval of any application shall be made to the Board of Zoning Adjustment in writing within ten days after the determination of the Zoning Administrator has been filed. If the zoning permit has been denied by the Zoning Administrator for reasons other than violations of the city's zoning regulations, then the appeal shall be taken to the City Council.
(1993 Code, § 9-201)

(B) *Zoning permit; limitation.* The zoning permit will be valid for a period of two years. 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. (1993 Code, § 9-202)

(C) *Zoning Administrator; barricades and lights.*

(1) It shall be the duty of the owner, tenant or lessee causing the construction or demolition of any building or improvement upon or near any public street, alley or sidewalk to have during such construction all excavations, building materials and debris protected by suitable guards or barricades by day, and by warning lights at night.

(2) The failure, neglect or refusal of said persons to erect such guards shall constitute a violation of this section and the municipal police or the Zoning Administrator shall stop all work until guards are erected and maintained as required, and if the barricades and lights are not erected within 24 hours, the Zoning Administrator shall revoke any zoning permit issued for such work. (1993 Code, § 9-203)

(D) *Zoning permits; duplicate to County Assessor.* Whenever a zoning permit is issued for the erection, of any building within the municipality's jurisdiction, and the improvement is \$1,000 or more, a duplicate of such permit shall be issued to the County Assessor. (1993 Code, § 9-204)

(E) *Building moving; regulations.*

(1) It shall be unlawful for any person, firm or corporation to move any building or structure within the municipality without a written permit to do so.

(2) Application may be made to the Municipal 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 Zoning Administrator may require.

(3) The application shall be accompanied by a certificate issued by the County Treasurer 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.

(4) The Municipal Clerk shall refer the said application to the municipal police for approval of the proposed route over which the said building is to be moved.

(5) Upon approval of the Zoning Administrator, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check or cash in an amount set by motion of the governing body and conditioned upon moving said building without doing damage to any private or municipal property is filed with the Municipal Clerk prior to the granting of any permit.

(6) 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.

(7) In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph 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.

(8) 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.

(9) Whenever the moving of any building necessitates interference with a water main, sewer main, pipes or wire belonging to the municipality, notice in writing of the time and route of the said building moving operation shall be given to the various municipal officials in charge of the municipal utility departments who shall proceed in behalf of the municipality and at the expense of the mover to make such disconnections and do such work as is necessary. (1993 Code, § 9-205)

(F) *Permit fees.* Application for zoning permits shall be filed in the office of the Building Official, which shall be the office of record for all matters referred to in this code. Fees to be paid to the city for zoning permits shall be charged as follows. Where work for such permit is required by Code is started prior to obtaining the prescribed permit, the fee above specified shall be doubled. The payment of such double fees shall not relieve any person from fully complying with the requirements of this Code in the execution of the work or from any other penalties prescribed herein.

(1) Zoning permit fees: for each zoning permit issued, there shall be charged and collected a fee for each building to be constructed or erected under such permit in accordance with the following schedule:

(a) Residential and accessory buildings: \$0.06 per square foot, plus \$0.03 per square foot for all floors above the second floor;

(b) All other buildings or structures: \$0.08 per square foot for the first 10,000 square feet and \$0.06 per square foot above 10,000 square feet;

(c) The minimum permit fee will be \$20;

(d) For antennas, radio towers or other use of land of a type not providing floor space to which the above schedule is applicable, there shall be charged a fee of \$1 for each \$100 of the total cost of work to be performed; provided the minimum fee shall be \$20;

(e) For foundation permits only, where complete plans have not been submitted and approved, a fee of \$20 shall be charged; and

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(f) There shall be a separate permit for each building or structure to be constructed or erected, except accessory buildings and appurtenances which may be included in the permit for the main building when construction is simultaneous.

(2) Demolition permit fees: a fee for each demolition permit shall be paid as follows:

- (a) Business or commercial building: \$50; and
- (b) Residential or accessory building: \$20.

(3) Federal and state buildings: if a building is designed and constructed by the federal or state government, no fee will be charged, but the building must comply with all requirements of this Code and the zoning ordinance.

(4) Fence permit fees: \$20.

(5) Water and Gas Meter fees: cost of meter

(6) Street curb removal fees: \$10.

(7) Driveway permit fees: \$10.

(8) Sidewalk Permit fees: \$10

(9) Sewer Tap Permit fees: \$20

(Ord. 11-023-1, passed 11-2-1993; Ord. 2013-21, passed 2-20-2013; Ord. 2013-22, passed 2-20-2013; Ord. 2013-23, passed 2-20-2013, Ord. 32-2019, passed July 15, 2019; Ord 2023-2, passed 11-2-2022)

Statutory reference:

Related provisions, see Neb. RS 17-130 through 17-132, 17-550, 17-1001, 18-1743, 39-6,177 to 39-6,180, 39-6,184, 77-1725

§ 150.04 BUILDING CODE.

(A) 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 Nebraska Building Code, which is set forth in Neb. RS 71-6403, which currently consists of the International Building Code (IBL), 2009 Edition, except § R313 and the International Existing Building Code, 2009 Edition, as each of these codes are published by the International Code Council are hereby incorporated by reference, in addition to all future amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the state.

(B) The provisions of the Nebraska Building Code shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1993 Code, § 9-301) (Ord. 9-213-1, passed 9-21-1993; Ord. 07-078-22, passed 7-7-1998; Ord. 2013-16, passed 2-6-2013)

Statutory reference:

Related provisions, see Neb. RS 17-1001, 18-132, 19-902, 19-922

§ 150.05 MECHANICAL CODE.

(A) To provide for certain minimum standards, provisions and requirements for safe and stable installation, methods of connection, and use of materials in the installation of mechanical devices, the Mayor and City Council hereby adopt the International Mechanical Code, 2009 Edition, as though printed in full herein insofar as said code does not conflict with the statutes of the state.

(B) One copy of the Mechanical Code is on file at the office of the Municipal Clerk and is available for public inspection at any reasonable time.

(C) The provisions of the Mechanical Code shall be controlling throughout the municipality. (1993 Code, § 9-302) (Ord. 11-023-1, passed 11-2-1993)

§ 150.06 PLUMBING CODE.

(A) 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 Uniform Plumbing Code, 2009 Edition, published in book or pamphlet form by the American Society of Mechanical Engineers, is hereby incorporated by referenced, in addition to all future amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the state.

(B) (1) One copy of the Plumbing Code is on file at the office of the Municipal Clerk and is available for public inspection at any reasonable time.

(2) The provisions of the Plumbing Code shall be controlling throughout the municipality. (1993 Code, § 9-401) (Ord. 9-213-1, passed 9-21-1993; Ord. 07-078-21, passed 7-7-1998; Ord. 2013-16, passed 2-6-2013)

Statutory reference:

Related provisions, see Neb. RS 17-1001, 18-132, 19-902, 19-922

§ 150.07 ELECTRICAL CODE.

(A) (1) For the purpose of providing minimum requirements for the protection of health, welfare, safety and property of the citizens of the city, the Mayor and City Council of the city hereby adopt the provisions of the 2009 National Electrical Code and its appendices.

(2) This section shall be known as the “National Electrical Code”, may be so cited, and will be referred to in this section as “this Code”.

(B) The Administration and enforcement of this section shall be the duty of the Mayor, who is hereby authorized to take such action as may be reasonably necessary to enforce the purposes of this Code and who shall have the authority to designate and appoint an Electrical Inspector to carry out and supervise the enforcement of the provisions of this Code.

(C) (1) All installations, repairs and alterations of wiring and all electrical apparatus shall be in accord with the provisions of this Code.

(2) In the case of discretionary actions and determinations of the Mayor or the duly designated Electrical Inspector, with respect to the interpretation and enforcement of this Code, the relevant facts shall be considered and determinations made in exercise of reasonable discretion.

(D) One copy of the 2009 National Electrical Code shall be kept on file in the office of the City Clerk for inspections by and use of the public, and shall be marked by the words “City of Alma Official Copy”.

(E) No electrical wiring shall be installed, altered or extended, unless excepted in this section prior to the issuance of a permit therefor by the Electrical Inspector.

(1) A permit shall be issued only to an Electrical Inspector.

(2) A permit shall be issued only to an electrician with an established place of business.

(3) No electrical apparatus or appliance shall be installed or placed in use in the city, until a permit therefor has been procured from the Electrical Inspector.

(1993 Code, § 9-501) (Ord. 9-213-1, passed 9-21-1993; Ord. 2013-16, passed 2-6-2013)

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MINIMUM STANDARDS HOUSING CODE

§ 150.20 TITLE.

This subchapter shall be known as the “Minimum Standards Housing Code”, may be cited as such, and is herein referred to as “this code”.
(1993 Code, § 9-601)

§ 150.21 SCOPE.

This subchapter shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation, excluding such institutional buildings as jails, hospitals and sanitariums. (1993 Code, § 9-602)

§ 150.22 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises” are used in this subchapter, they shall be construed as though they were followed by the words “or any part thereof”.

APARTMENT. Room or suite or rooms occupied or which is intended or designed to be occupied, as the home or residence of one individual, family or household, for housekeeping purposes.

APARTMENT HOUSE. Any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied as a home or residence of more than two families living independently of each other.

APPROVED. Approval by the Building Inspector under the provisions of this code, or approved by other authority designated by law to give approval in the matter in question.

BASEMENT. A portion of a building located partly underground, but having more than half its clear floor to ceiling height above the average grade of the adjoining ground.

BATH. A bathtub or shower stall.

BEDROOM. A habitable room within a dwelling unit which is used, or intended to be used, primarily for the purpose of sleeping, but shall not include any kitchen, dining room or living room in which cots, roll-away beds, or davenports may be used for sleeping purposes.

CELLAR. The portion of the building partly underground, having half or more than half of its clear height below the average grade of adjoining ground.

DINING ROOM. A habitable room, used or intended to be used, for the purpose of eating, but not for the cooking or preparation of the meals.

DWELLING. Any building which is wholly or partly used for, or intended to be used for, living or sleeping by human occupants; provided, that temporary housing as hereinafter defined shall not be regarded as a dwelling.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with living, sleeping, cooking and eating facilities.

EMERGENCY. A combination of circumstances calling for immediate action to protect the health and safety of persons residing in the city.

EXIT. A continuous and unobstructed means of egress from a building or dwelling contained therein to a public way and shall include intervening doorways, corridors, ramps, stairways, fire escapes, courts and yards.

EXTERMINATION. The control or elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the health officer.

FAMILY. A group of persons related by blood, marriage or adoption within and including the degree of first cousins.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and non-consumption of food.

HABITABLE ROOM. A room or enclosed floor space used, or intended to be used, for living, sleeping, cooking or eating purposes, excluding bathrooms, basement recreation rooms, toilet rooms, laundries, pantries, foyers, communicating corridors, closets, storage spaces and stairways.

HEALTH OFFICER. The legally designated head of the Department of Health of any city, governmental unit or combination thereof.

HOTEL. Any dwelling wherein sleeping accommodations are offered for pay to transients, in five or more rooms. It does not include rooming houses, but shall include motel or cabin courts.

INFESTATION. The presence within or around a dwelling, of any insects, rodents or other pests.

KITCHEN. A habitable room used, or intended to be used, for the cooking of food or the preparation of meals.

LIVING ROOM. A habitable room within a dwelling unit which is used, or intended to be used, primarily for general living purposes, but not for sleeping or cooking.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

NON-DWELLING STRUCTURE. Any structure, except a dwelling, used or intended to be used for the shelter or enclosure of any person, animal or property of any kind.

OCCUPANT. Any person, over one year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who, alone or jointly or severally with others:

(1) Shall have legal title or equitable title to any dwelling, dwelling unit, rooming unit or hotel unit; or

(2) Shall have charge, call or control of any dwelling, dwelling unit or nursing unit as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

PERSON. Includes any individual, firm, corporation, association or partnership.

PLUMBING. Includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, water closets, toilets, sinks, installed dishwashers, lavatories, bathtubs, showers, baths, installed clothes washing machines, catch basins, drains, vents, hot water heaters and any other similar fixtures, together with all connections to water, sewer or gas lines.

REASONABLE TIME. A time convenient for the occupant or owner, as the case may be, for the inspection of the dwelling, dwelling unit, rooming house or rooming unit. If, however, a time cannot be agreed upon, a letter shall be sent by those in charge of inspection to the occupant or owner, as the case may be, stating the time the inspection shall be made. At least three days' notice shall be given in the letter of inspection.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

ROOMING UNIT. Any rooms or group of rooms forming a single habitable unit used, or intended to be used, for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; and the term shall include, and not be limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, automobile chassis and bodies, metals, mineral matter, glass, crockery and dust.

STAIR HALL. A public hall or private hall which includes the stairs, stair landings and those portions of the building through which it is necessary to pass in going between the lowest entrance floor and the roof.

SUPPLIED. Paid for, furnished, provided by or under control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days. The provisions of this subchapter shall not apply to **TEMPORARY HOUSING**.

TOILET. A water closet, with a bowl and trap made in one piece, which is of such shape and form and which holds a sufficient quantity of water so that no fecal matter will collect on the surface of the bowl and which is equipped with flushing rims which permit the bowl to be properly flushed and scoured when water is discharged through the flushing rims.

(1993 Code, § 9-603)

§ 150.23 KITCHEN SINK REQUIRED.

Every dwelling unit shall contain a kitchen sink in good working order and connected to a water and sewer system.

(1993 Code, § 9-604)

§ 150.24 TOILET REQUIRED.

Every dwelling unit shall contain a toilet in good working order.

(1993 Code, § 9-605)

§ 150.25 BATH REQUIRED.

Every dwelling unit shall contain a bath or shower in good working condition and a lavatory basin connected to a water and sewer system.

(1993 Code, § 9-606)

§ 150.26 SHARING BATH AND TOILET FACILITIES.

The occupants of not more than one dwelling unit may share a single water closet, a single lavatory basin and a single bathtub or shower.
(1993 Code, § 9-607)

§ 150.27 PRIVACY OF ROOM CONTAINING BATH AND TOILET.

Every toilet and every bath shall be contained within a room or within separate rooms which afford privacy to a person within said room or rooms.
(1993 Code, § 9-608)

§ 150.28 HOT AND COLD WATER.

Every kitchen sink, lavatory, basin and bathtub or shower required under the preceding sections of this subchapter shall be connected with both hot (not less than 120°F) and cold water lines, with adequate supply and pressure, at all outlets.
(1993 Code, § 9-609)

§ 150.29 WATER HEATING FACILITIES.

Every dwelling shall have supplied water heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required under provisions of this subchapter, and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory, basin, bathtub or shower at a temperature of not less than 120°F.
(1993 Code, § 9-610)

§ 150.30 EXITS.

Every dwelling unit shall have safe, unobstructed means of egress leading to a safe and open space at ground level.
(1993 Code, § 9-611)

§ 150.31 RUBBISH STORAGE.

Every dwelling unit shall be supplied with adequate rubbish storage facilities. (1993 Code, § 9-612)

§ 150.32 GARBAGE DISPOSAL.

Every dwelling unit shall have adequate garbage disposal facilities or sanitary garbage containers. (1993 Code, § 9-613)

§ 150.33 CONNECTION TO WATER AND SEWER LINES.

The fixtures referred to shall be properly connected to adequate water and sewer lines. (1993 Code, § 9-614)

§ 150.34 REQUIRED WINDOW AREA.

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room, shall be 10% of the floor area of such room. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to duct directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room. (1993 Code, § 9-615)

§ 150.35 OPENABLE WINDOW AREA.

(A) Every habitable room shall have at least one window or skylight, as provided in § 150.34, which can be easily opened, or such other device as will adequately ventilate the room.

(B) The total of openable window area in every habitable room shall be equal to at least 40% of the window area or skylight window area, except where there is supplied some other device affording equal or greater ventilation. (1993 Code, § 9-616)

§ 150.36 VENTILATION REQUIRED.

Every habitable room, and the bathroom or toilet room, shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. (1993 Code, § 9-617)

§ 150.37 SCREENS REQUIRED.

During that portion of each year when it is necessary for protection against mosquitoes, flies and other insects, every window, door and other device with openings for outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens.

(1993 Code, § 9-618)

§ 150.38 RODENT PROTECTION.

Every basement or cellar window used, or intended to be used, for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such device as will effectively prevent their entrance.

(1993 Code, § 9-619)

§ 150.39 HEATING FACILITIES.

(A) Whenever a dwelling unit has supplied heating facilities, said facilities shall be properly installed, be maintained in reasonably good working order, and be capable of adequately heating all habitable rooms, bathrooms and toilet rooms, contained therein, to a temperature of at least 70°F, at a distance three feet above floor level, when the outdoor temperature is at or above -10°F.

(1) Whenever a dwelling unit does not have supplied heating facilities, it shall contain a sufficient number of chimney outlets to permit the occupant to adequately heat all habitable rooms, bathrooms and toilet rooms contained therein, to a temperature of at least 70°F, at a distance of three feet above floor level, when the outdoor temperature is at or above -10°F.

(2) Every supplied central heating system shall comply with all the following requirements.

(a) The central heating unit shall be safe and in reasonably good operating condition.

(b) Every heat duct, steam pipe and hot water pipe shall be free of leaks and shall function so that an adequate amount of heat is delivered where intended.

(c) Every seal between any of the sections of a hot air furnace shall be air-tight so noxious gases and fumes will not escape into the heat ducts.

(B) Every supplied space heater shall comply with all of the following requirements.

(1) No space heater burning solid, liquid or gaseous fuels shall be of a portable type.

(2) Every space heater burning solid, liquid or gaseous fuels shall be properly vented to a chimney or duct leading to outdoor space and be so installed as to provide proper draft.

(3) Every fuel burning space heater shall have a fire-resistant panel between it and the floor or floor covering.

(4) Every space heater located within two feet of a wall shall be equipped with insulation sufficient to prevent overheating of the wall during periods of maximum operation.

(5) Every space heater smoke pipe shall be equipped with approved type thimbles or guards properly constructed of nonflammable material, at the point where the pipe goes through any wall, ceiling or partition.

(1993 Code, § 9-620)

§ 150.40 ELECTRIC OUTLETS AND FIXTURES.

Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, every habitable room of such dwelling shall contain at least two separate floor- or wall-type electric convenience outlets, or one such convenience outlet and one supplied ceiling-type electric light fixture; and every water closet compartment, bathroom, laundry room and furnace room shall contain at least one supplied ceiling- or wall-type electric light fixture.

(1993 Code, § 9-621)

§ 150.41 LIGHTING IN PUBLIC HALLS AND STAIRWAYS.

Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full time lighting.

(1993 Code, § 9-622)

§ 150.42 FLOOR SPACE.

Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof, and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(1993 Code, § 9-623)

§ 150.43 CEILING HEIGHT.

At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet and the floor area of that part of any room where the ceiling height is less than five feet, shall not be considered as part of the floor area in computing the total area of the room for the purpose of determining the maximum permissible occupancy thereof as set down in § 150.42. (1993 Code, § 9-624)

§ 150.44 HABITABLE CELLAR.

No cellar space shall be used or considered as a habitable room or dwelling unit. (1993 Code, § 9-625) Penalty, see § 150.99

§ 150.45 HABITABLE BASEMENT.

No basement space shall be used as a habitable room or dwelling unit unless:

(A) The floor and walls are impervious to leakage of underground and surface run-off water and are insulated against dampness;

(B) The total window area in each room is equal to at least the minimum window area sizes as required in §§ 150.34 and 150.35; and is equal to at least the ventilation required in § 150.36; and is equal to at least the minimum requirements for heating and electrical outlets as provided for in §§ 150.39 and 150.40;

(C) Such basement dwelling shall be entirely sealed off from the central heating plant with a one-hour fire separation;

(D) Such basement dwelling provides two means of exit, with at least one outside doorway; and

(E) Such basement dwelling has a ceiling height of at least seven feet. (1993 Code, § 9-626)

§ 150.46 ACCESS TO BATHROOM AND BEDROOM.

No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or toilet room intended for use by occupants or more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements

be such that access to a sleeping room can be had only by going through another sleeping room or bathroom or toilet room.

(1993 Code, § 9-627)

§ 150.47 BUILDING TO BE WEATHER-TIGHT, WATER-TIGHT AND RODENT-PROOF.

Every foundation, floor, wall, ceiling and roof shall be reasonably weather-tight, water-tight and rodent-proof, shall be capable of affording privacy, and shall be kept in good repair.

(1993 Code, § 9-628)

§ 150.48 EXTERIOR OPENINGS.

Every window, exterior door and basement hatchway shall be reasonably weather-tight, water-tight and rodent-proof; and shall be kept in sound working condition and good repair.

(1993 Code, § 9-629)

§ 150.49 STAIRS, PORCHES AND APPURTENANCES.

Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(1993 Code, § 9-630)

§ 150.50 PLUMBING.

All plumbing shall be properly installed and maintained in good working condition, free from defects, leaks and obstructions and shall be properly connected to sewer lines that discharge into a public sewerage system, or if no public system is available, into a private or jointly owned system meeting the requirements of the County and State Health Departments.

(1993 Code, § 9-631)

§ 150.51 FLOOR SURFACES OF BATH AND TOILET ROOMS.

Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(1993 Code, § 9-632)

§ 150.52 CONSTRUCTION AND MAINTENANCE OF EQUIPMENT AND FACILITIES.

Every supplied facility, piece of equipment or utility which is required under this subchapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(1993 Code, § 9-633)

§ 150.53 REMOVAL OR SHUT-OFF OF FACILITIES AND EQUIPMENT.

No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this subchapter to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him or her, except for such temporary interruption as may be necessary while actual repairs or alternations are in process, or during temporary emergencies when discontinuance of service is approved by the Building Inspector.

(1993 Code, § 9-634)

§ 150.54 DRAINAGE.

Every yard shall be property graded so as to obtain thorough drainage and so as to prevent accumulation of stagnant water.

(1993 Code, § 9-635)

§ 150.55 RESPONSIBILITIES OF THE OCCUPANTS.

Responsibilities of the occupants shall include, but not be limited to the following:

(A) To keep the dwelling, dwelling unit and premises he or she controls and occupies in a clean and sanitary condition;

(B) To dispose of rubbish in a clean and sanitary manner as prescribed by city regulations;

(C) To keep plumbing fixtures therein in a clean and sanitary condition and to exercise reasonable care in the proper use and operation thereof;

(D) To exterminate in the following cases:

(1) The occupant of a single dwelling unit is responsible for extermination of any insects, rodents or other pests therein or on the premises; and

(2) The occupant of a single dwelling unit in a multiple unit structure is responsible for extermination of any insects, rodents or other pests if his or her unit is the only unit infested.

(E) Notwithstanding the foregoing provisions of this section, whenever infestation is caused by the failure of the owner to maintain the dwelling in a rat-proof or reasonably insect-proof condition, the occupant is not responsible for extermination of any insects, rodents or other pests therein;

(F) No occupant shall willfully destroy, deface or impair any of the facilities, equipment or any part of the structure of a dwelling unit, dwelling, multi-dwelling or apartment; and

(G) It shall be unlawful for the owner or occupant of a dwelling to utilize the premises of such dwelling for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items, as listed above, including, but not limited to, weeds, dead trees, trash or garbage upon notice from the Building Inspector. For the purposes of this section, *ABANDONED MOTOR VEHICLE* is deemed as one that is in a state of disrepair and incapable of being moved under its own power.

(1993 Code, § 9-636)

§ 150.56 RESPONSIBILITIES OF THE OWNER.

Responsibilities of the owner shall include, but are not limited to, the following:

(A) Where there are two or more dwelling units, to maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof;

(B) To have dwelling in a clean, sanitary, habitable condition, free from infestation before renting or leasing, to paint walls and ceilings and to clean, repair and exterminate if needed to meet aforesaid requirements before offering for rent or lease;

(C) To provide every door opening directly from a dwelling unit to outdoor space with screens and a self-closing device, and every window or other device openings to outdoor space, used or intended to be used for ventilation with screens;

(D) To exterminate in the following cases of infestation:

(1) When infestation exists in shared or public areas of a multiple unit structure;

(2) When infestation exists in two or more units of a multiple unit structure; and

(3) When infestation exists in a single unit of a multiple unit structure or in a single unit structure when infestation is due to failure of the owner to maintain the dwelling in a rat-proof and reasonably insect-proof condition.

(E) To perform the responsibilities of the occupant when premises are vacant. (1993 Code, § 9-637)

§ 150.57 LANDLORD-TENANT RELATIONSHIP.

In all cases involving landlord-tenant relationships, §§ 76-1401 to 76-1449 of Nebraska's Residential Landlord and Tenant Act are controlling.
(1993 Code, § 9-638)

§ 150.58 ROOMING HOUSES.

(A) *Permit required.* No person shall operate a rooming house unless he or she holds a valid rooming house permit issued by the Building Inspector in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the Building Inspector for such permit, which shall be issued by the Building Inspector, upon compliance by the operator with the applicable provisions of this code and of any rules and regulations adopted pursuant thereto. This permit shall be displayed in a conspicuous place within the rooming house at all times. No such permit shall be transferable. Every person holding such permit shall give notice in writing to the Building Inspector within 24 hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the home address of the person succeeding the ownership or control of such rooming house. Every rooming house permit shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided.
(1993 Code, § 9-639)

(B) *Water closet; lavatory basin; bath facilities.* At least one toilet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a rooming house whenever they share the use of said facilities; provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of toilets. All such facilities shall be so located within the dwelling as to be reasonably accessible for a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such required facilities shall be located so as to be more than one floor removed from any rooming unit.
(1993 Code, § 9-640)

(C) *Sanitary maintenance.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other

part of the rooming house; and he shall be farther responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.
(1993 Code, § 9-641)

(D) Bed, linen and towels. The operator of every rooming house shall change supplied linen and towels therein at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner. (1993 Code, § 9-642)

(E) Floor space for sleeping purposes. Every room occupied for sleeping purposes by one person shall contain at least 80 square feet of floor space and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof. (1993 Code, § 9-643)

(F) Means of exit. Every rooming unit shall have safe unobstructed exits leading to safe and open space at ground level, as required by the laws of this city and this state.
(1993 Code, § 9-644)

(G) Applicability to hotels. Every provision of this subchapter which applies to rooming houses shall also apply to hotels.
(1993 Code, § 9-645)

(H) Compliance with subchapter. No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of this code, except the §§ 150.23 through 150.33 and §§ 150.55 through 150.57.
(1993 Code, § 9-646)
Penalty, see § 150.99

§ 150.59 ADMINISTRATION AND ENFORCEMENT; INSPECTION REPORT.

(A) The Building Inspector shall, for each inspection made, make an inspection report noting any violations of this subchapter or conditions which indicate that a dwelling is unfit for human habitation or that any part of the building is unsafe. He or she shall give a copy to the owner or occupant, or both, as the case may require, and shall retain one copy.

(B) Except where a complaint as provided in § 150.60 is served at the time of inspection, the report shall serve as notice to the affected persons that there is a violation of this code and may contain a time limit for compliance.
(1993 Code, § 9-647)

§ 150.60 PLACARDING OF DWELLINGS AND DWELLING UNITS AS UNFIT FOR HUMAN HABITATION.

(A) Whenever the Building Inspector shall determine that a dwelling or dwelling unit is unfit for human habitation, he or she shall placard the dwelling or dwelling unit as unfit for human habitation and notify the owner of his or her findings as provided for in § 150.62.

(B) Any dwelling or dwelling unit which the Building Inspector shall find to have any of the following defects shall be placarded as unfit for human habitation:

(1) One which is so damaged, decayed, dilapidated, unsanitary, difficult to heat, unsafe or vermin infested that creates a hazard to the health or welfare of the occupants or the public;

(2) One which lacks illumination, ventilation or sanitary facilities adequate to protect the health or welfare of the occupants or of the public; or

(3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or welfare of the occupants or the public.

(C) Any dwelling or dwelling unit may be placarded as unfit for human habitation by the Building Inspector if the owner or occupant failed to comply with any order based on the provisions of this code or any rules or regulations adopted pursuant thereto; provided, that such dwelling or dwelling unit is, in the opinion of the Building Inspector, unfit for human habitation by reason of such failure to comply.

(D) The Building Inspector may cause to be posted on the main entrance, a placard with the following words: "This building is unfit for human habitation or other use; the use or occupation of this building for human habitation or other use after _____ is unlawful and is prohibited." (1993 Code, § 9-648)

§ 150.61 COMPLAINT; SHOW CAUSE; ORDER.

(A) The Building Inspector may issue and cause to be served, in the manner prescribed in § 150.62, a complaint charging that a dwelling is unfit or that any building is unsafe; if his or her inspection discloses a basis for so charging, the complaint shall state: that a hearing will be held before the Building Inspector (or his or her designated agent) at a place therein fixed not less than ten nor more than 30 days after the serving of the complaint; that the owner and parties in interest may file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and show cause why an order should not be issued against the owner of the building citing violations of this minimum housing code and further orders consistent with minimum housing practices be issued to rectify the violations noted in the complaint; and that rules of evidence prevailing in the courts of law or equity shall not be controlling in hearings before the Building Inspector.

(B) If after such notice and hearing, the Building Inspector determines that the dwelling or dwelling unit under consideration is unfit for human habitation or the building is dangerous, he or she shall state in writing, his or her findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order to the intent and within the time specified in the order, to repair, alter or improve the said dwelling or other building to render it fit and safe; or if the owner decides not to make the repair, alteration or improvement within the time specified in the order, the owner shall remove or demolish the said dwelling or other building.

(1993 Code, § 9-649)

§ 150.62 SERVICE OF REPORTS, NOTICES, COMPLAINTS OR ORDERS.

(A) Reports or notices issued by the Building Inspector pursuant hereto shall be served upon persons either personally or by registered mail to the last known address of the person or persons.

(B) Complaints or orders shall be served upon the persons either personally, or by registered mail, but if the whereabouts of any person is unknown and the same cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, and the Building Inspector shall make an affidavit to that effect, then the serving of a complaint or order upon such person may be made by publishing the same once a week for two consecutive weeks in the official newspaper of the city, service being deemed complete upon the date of the last publication. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order and shall be recorded in the office of the clerk of the district court of the county wherein the dwelling or building is located.

(C) The complaint or order shall include a statement of the reason or reasons why it is being issued.

(D) The complaint or order shall include a description of the repairs and improvements required to bring the dwelling or building into compliance with the regulations of this code and any rules or regulations adopted pursuant thereto.

(1993 Code, § 9-650)

§ 150.63 FAILURE TO COMPLY WITH ORDER.

(A) If the owner of the dwelling or other building fails to comply with the order of the Building Inspector to repair, alter or improve, and/or vacate, close, remove or demolish the dwelling or building, the Building Inspector may cause such dwelling or building to be repaired, altered or improved and/or vacated, closed, removed or demolished.

(B) No person shall deface or remove the placard or other notice required hereunder from any dwelling, dwelling unit, rooming house, rooming unit or building. The Building Inspector shall cause the placard to be removed whenever the defects upon which the placarding action were based have been corrected or removed.

(C) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Building Inspector, including the cost of advertising and publication of notice shall be the personal debt and liability of the owner or owners, and shall be a lien against the real property upon which such cost was incurred. Said cost shall be placed upon the city's tax books against the said property and may be collected, and the said liens may be foreclosed, in the same manner as taxes and tax liens are collected and foreclosed, or by other civil suit and process as the City Attorney may determine. If the dwelling, dwelling unit or building is removed or demolished by the Building Inspector, he shall, if possible, sell the materials of such dwelling, dwelling unit or building and shall credit the proceeds of such sale against the cost of removal or demolition, and any balance remaining shall be deposited in the district court by the Building Inspector, shall be secured in such manner as may be directed by the court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such courts.

(D) Failure on the part of any owner or party in interest to receive or have served upon him or her any complaint, notice or order herein provided for, shall not affect or invalidate the proceedings with respect to any other owner or party in interest of any other person, firm or corporation.
(1993 Code, § 9-651) Penalty, see § 150.99

§ 150.64 RENTS UNCOLLECTIBLE.

The tenants of any building which has been placarded as unsafe or unfit for human habitation shall not be held liable and no rent shall be recoverable by the owner or lessor for any period following the date that the placard declaring the premises unsafe or unfit for human habitation was affixed thereto. (1993 Code, § 9-652)

§ 150.65 SERVICE BY PUBLIC UTILITIES.

(A) It shall be unlawful for any public utilities corporation or company to furnish gas or electrical service to any dwelling or dwelling unit which has been placarded by the Building Inspector as unsafe or unfit for human habitation.

(B) The Building Inspector shall notify said public utility company or corporation in writing of his or her action in placarding the dwelling or dwelling unit and shall specify the date at which time the utility service shall be discontinued. The utility service shall not be restored to a placarded dwelling or dwelling unit until notice in writing is received from the Building Inspector authorizing the restoration of such service by the utility company or corporation providing that the Building Inspector may authorize restoration of service to be used in connection with renovation, repair or remodeling of said dwelling or dwelling units to comply with the provisions of this code.
(1993 Code, § 9-653) Penalty, see § 150.99

§ 150.66 OTHER ADMINISTRATION AND ENFORCEMENT PROVISIONS.

(A) *Duties of legal officer.* The City Attorney (and prosecuting attorney) shall, upon complaint of the Building Inspector, or upon his or her own motion, institute appropriate action to restrain, prevent, enjoin, abate, correct or remove such violation, and to take such legal action as is necessary to carry out the terms and provisions of this subchapter. The remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law; any and all remedies may be pursued concurrently or consecutively, and the pursuance of any remedy shall not be construed as the waiver of the right to pursue any or all of the others.

(1993 Code, § 9-654)

(B) *Judicial review.* Any person affected by an order which has been upheld in full or part by the Board of Appeals may, within 60 days after the posting and service of the order, petition the district court for an injunction as provided by Neb. RS 25-1062, or seek to have the order reviewed as may otherwise be provided by law.

(1993 Code, § 9-655)

(C) *Emergency action.* Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public health and/or welfare, he or she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this subchapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Building Inspector shall be afforded a hearing in the manner prescribed in § 150.61 as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this subchapter and of the rules and regulations adopted pursuant thereto have been complied with, the Building Inspector shall continue such order in effect, or modify it or revoke it.

(1993 Code, § 9-656)

(D) *Rules and regulations.* The City Council may, by resolution, adopt such rules and regulations as may be necessary for the proper enforcement of the provisions of this Code, provided that such rules and regulations shall not be in conflict with the provisions of this Code. Such rules and regulations shall have the same force and effect as the provisions of this Code, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this Code, as hereinafter provided.

(1993 Code, § 9-657)

(E) *Building Inspector; responsibility.* The administration of this subchapter shall be the responsibility of the Building Inspector. He or she will work in close cooperation with the Fire Chief, County Health Department and other officials and agencies; he or she may seek their written opinions concerning the conditions of dwellings or other buildings.

(1993 Code, § 9-658)

(F) *Building Inspector: personal liability.* The Building Inspector and his or her assistants shall be free from personal liability for acts done in good faith in the performance of official duties.
(1993 Code, § 9-659)

(G) *Building Inspector: financial interests.* The Building Inspector or any one of his or her assistants shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner, and shall not act as an agent for real estate sales, leases or rentals.
(1993 Code, § 9-660)

(H) *Building Inspector; powers and duties.*

(1) The Building Inspector is authorized to conduct surveys and make inspections, in accordance with law, in any area of the community to determine compliance with this subchapter or other ordinances he or she is empowered to enforce.

(2) The Building Inspector shall investigate all complaints, whether they be verbal, written or in the form of a petition alleging or charging that a violation of this subchapter exists and/or that a building or dwelling is unfit or unsafe for human habitation or other occupancy.

(3) For the purpose of making such surveys, inspections and investigations, the Building Inspector is hereby authorized, upon identification and statement of purpose, to enter, inspect, survey and investigate, or if requested by the owner or occupant all buildings, dwellings, dwelling units, rooming units and general premises. The owner or occupant of every building, dwelling, dwelling unit, rooming unit, and general premises, or the person in charge thereof, shall give the Building Inspector free access to such building, dwelling, dwelling unit, rooming unit or general premises for the purpose of such inspection, survey or investigation. The inspection time requested by the Inspector must be reasonable, and access be granted by the owner or occupant at the requested time or at any reasonable time within five days. Upon failure of the owner or occupant to grant reasonable time for access by the Building Inspector, the Building Inspector is authorized to seek appropriate judicial measures for gaining access to any building, dwelling, dwelling unit, rooming house or rooming unit.
(1993 Code, § 9-661)

(I) *Building Inspector; records and reports.* The Building Inspector shall keep records of all complaints received, inspection reports orders and complaints issued and of other actions taken. The records shall be available for public inspection. He or she shall prepare an annual report including statistics based on the records kept. This report shall be presented to the City Council and available to the public.
(1993 Code, § 9-662)

(J) *Board of Appeals; creation; functions powers.*

(1) There is hereby created the Board of Housing Appeals which shall consist of five voting members who shall be appointed by the City Council, which shall designate one of the five members as Chairperson. Said members shall receive no compensation from the city. Each of said five members shall be a qualified elector of the city and shall neither hold nor be a candidate for any public office or position. One representative shall be appointed from the financial profession, one representative shall be appointed from the building and trade industry, one representative shall be appointed from the legal profession, one representative shall be appointed from the field of social services, and one representative shall be appointed at large.

(2) Of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, and one for a term of three years and thereafter they shall be appointed for terms of four years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from regular meetings of the Board shall, at the discretion of the appointing authority, render any such member liable to immediate removal from office.

(3) Three members of the Board shall constitute a quorum. In varying the application of any provisions, modifying or reversing an order of the Building Inspector, not less than three affirmative votes shall be required. No Board member shall act in a case in which he or she has a personal interest.

(4) The Building Inspector, Fire Chief and the City Director of Health shall be named and appointed by the City Council as ex officio members of said Board, but said three members shall not have voting rights.

(5) The Board shall have the power to adopt rules and regulations for the conducting of its hearings, and to issue subpoenas and subpoenas duces tecum to witnesses when reasonably necessary to obtain pertinent evidence; and any member of the Board shall have authority to administer oaths, affirmations, examine witnesses and receive evidence.

(6) The Board shall meet at regular intervals to be determined by the Chairperson. (1993 Code, § 9-663)

(K) Board of Appeals; variances from the requirements of this code. Where, because of conditions peculiar to a particular building, it would be unreasonably difficult to meet the literal requirements of this Code, a variance may be granted by the Board upon written application therefor. Such application shall state in writing the reasons why the variance shall be made. A variance may be granted only where it is evident that reasonable safety and sanitation is assured, and may include conditions not generally specified by this subchapter in order to achieve that end. The variance may include an expiration date. A copy of the variance shall be filed in the office of the Building Inspector and a copy shall be given to the applicant.

(1993 Code, § 9-664)

(L) Board of Appeals: appeals from decisions of the Building Inspector.

(1) Whenever it is claimed that the true interest and meaning of this Code has been wrongly interpreted or that the time allowed for compliance is unreasonable, the owner, his or her agent, or the occupant, as the case may be, may file a petition of appeal from a decision or order of the Building Inspector. A petition form shall be furnished by the Building Inspector. Such petition shall be in writing and filed within ten days after the decision or order of the Building Inspector has been made.

(2) The appeal hearing shall be commenced not later than 15 days after the date on which the petition was filed. The petitioner shall be given written notice of the time and place of such hearing.

(3) The Board shall have the power and shall be required to hear and decide appeals where it is alleged there has been an error in any order or decision arrived at by the Building Inspector in the enforcement of this Code.

(4) The Board, when so appealed to, shall have the power to sustain, modify or reverse, the decision of the Building Inspector. Its decision shall be final, subject, however, to such remedy as any aggrieved person may have at law or in equity.
(1993 Code, § 9-665)

(M) Board of Appeals; review by court.

(1) The proceedings at such hearing, including the findings and decision of the Building Inspector, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Building Inspector.

(2) Such record shall also include a copy of every notice or order issued in connection with the matter.

(3) A copy of the written decision of the Board shall then be served, in the manner prescribed under § 150.62, on the person who filed the petition for hearing.

(4) Any person or persons, jointly or severally, aggrieved by the decision or order of the Building Inspector, or any taxpayer, or any officer, department, board or bureau of the municipality, may seek relief therefrom in any court of competent jurisdiction as provided by the laws of this state. (1993 Code, § 9-666)

§ 150.67 PERJURY.

If any person or persons whomsoever shall give any intentional false information, or oath in connection with matters pertaining to this Code, or in any forms, affidavits or hearings in connection therewith, it shall be deemed perjury.
(1993 Code, § 9-668)

§ 150.68 FAILURE TO COMPLY.

It shall be unlawful for any person to occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling units as living quarters which does not comply with the requirements of this subchapter.

(1993 Code, § 9-669) Penalty, see § 150.99

§ 150.69 CONFLICTING PROVISIONS.

(A) In any case where a provision of this Code is found to be in conflict with a provision of any ordinance existing on the effective date of this Code, the provision which established the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(B) In any case where a provision of this Code is found to be in conflict with any provision of any other ordinance existing on the effective date of this Code which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Code shall be deemed to prevail.

(1993 Code, § 9-670)

§ 150.99 PENALTY.

(A) 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, or the Municipal Zoning and Subdivision Regulations shall be deemed guilty of an offense and, upon conviction hereof, shall be fined not more than \$500 for each offense. A new offense shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code § 9-801)

(B) Whenever any violation exists as defined in this chapter, including Zoning and Subdivision Regulations, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (1993 Code § 9-802)

(Ord. 2018-3, passed 7- -2018)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722

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CHAPTER 151: FLOOD PREVENTION AND PROTECTION

Section

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§ 151.01 FINDINGS; PURPOSE.

(A) *Statutory authorization.* The legislature of the state has in Neb. RS 31-1001 to 31-1022, assigned the responsibility to local governmental units to adopt floodplain management regulation designed to protect the public health, safety and general welfare. Therefore, the City Mayor and City Council ordain as follows.

(B) *Findings of fact.*

(1) *Flood losses resulting from periodic inundation.* The flood hazard areas of the city are subject to inundation, which may result in loss of life and property, health and safety hazards, disruption

of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) *General causes of the flood losses.* These flood losses are caused by: the cumulative effect of obstructions in flood-plains causing increases in flood heights and velocities; and the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those losses described in division (B) above by applying the provisions of this chapter to:

(1) Restrict or prohibit uses which are dangerous to health, safety or property in times of flooding or cause undue increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;

(3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard; and

(4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.02 LOCAL ADMINISTRATOR RESPONSIBILITIES.

(A) The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this chapter and all other ordinances of the city now in force or hereafter adopted, related to zoning, subdivision or building codes.

(B) The Zoning Administrator shall be appointed to these additional responsibilities by resolution of the governing body and his or her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the City Administrator, the governing body of the city shall designate an acting Administrator.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless specifically defined below, words or phrases used in

this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

BASE FLOOD. The flood having 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor subgrade (below ground floor) on all sides.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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 minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

EXPANSION OF EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sited 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).

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; and/or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source (see definition of **FLOODING**).

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY. The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

HISTORIC STRUCTURE. Any structure that is: listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register; Certified or preliminarily determined by the Secretary of Interiors as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: by an approved state program as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, useable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes and subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. 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 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.

100-YEAR FLOOD. The condition of flooding having a 1% chance of annual occurrence.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

RECREATIONAL VEHICLE. A vehicle which is: built on chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOOD ELEVATION. The water surface elevation of the 100-year flood.

SPECIAL FLOOD HAZARD AREA. The land in the floodplain within a community subject to 1% or greater chance of flooding.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Act (Pub. L. No. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual **START** means the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the work of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure., For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

(1) Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement.

(2) This includes structures which have incurred “substantial damage”, regardless of the actual repair work performed.

(3) The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

VARIANCE. A grant of relief to a person from the terms of a floodplain management ordinance.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.
(Ord. 06-1609-1, passed 6-16-2009)

§ 151.04 DESIGNATION OF CURRENT FHBM/FIRM.

The governing body of the city hereby designates the current flood hazard boundary map/flood insurance rate map dated February 18, 2009, as the official map to be used in determining those areas of special flood hazard.
(Ord. 06-1609-1, passed 6-16-2009)

§ 151.05 PERMITS REQUIRED.

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this chapter/resolution.

(A) Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including placement of manufactured homes.

(B) To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:

(1) Identify and describe the development to be covered by the floodplain development permit for which application is made;

(2) Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development;

(3) Indicate the use or occupancy for which the proposed development is intended;

(4) Be accompanied by plans and specifications for proposed construction;

(5) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority;

(6) Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of flood-proofed nonresidential structures, the elevation to which it shall be flood-proofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator; and

(7) Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or flood-proofing structures above the minimum levels will result in premium reduction, especially in the case of nonresidential flood-proofing when minus one foot penalty is assessed at the time of rating the structure for the policy premium.)

(Ord. 06-1609-1, passed 6-16-2009) Penalty, see § 151.99

§ 151.06 DEVELOPMENT PERMIT APPLICATION REVIEW.

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and all necessary permits have been received as required by federal or state law.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.07 ALL APPLICATIONS REVIEW.

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments(s) (as defined in § 151.03) will:

(A) Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from federal, state or other sources, until such other data is provided by the Federal Insurance Administration in a flood insurance study; and require within special flood hazard areas on the official map that the following performance standards be met.

(1) Until a floodway has been designated, no development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one foot at any location.

(2) Residential construction: new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.

(3) Nonresidential construction: new construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below such a level, the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(a) A registered professional engineer or architect shall certify that the standards of this division are satisfied.

(b) Such certification shall be provided to the local administrator.

(4) Require for all new construction and substantial improvements: that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.

(a) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(B) Require the use of construction materials that are resistant to flood damage;

(C) Require the use of construction methods and practices that will minimize flood damage;

(D) Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(E) New structures be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding;

(F) Assure that all manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with state laws, local building codes and 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.

(1) Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring four additional ties per side.

(2) Frame ties 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.

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds.

(4) Any additions to manufactured homes be similarly anchored.

(G) Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:

(1) Outside of a manufactured home park or subdivision;

(2) In a new manufactured home park or subdivision;

(3) In an expansion to an existing manufactured home park or subdivision; or

(4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (F) above.

(H) Assure that 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 community's official map that are not subject to the provisions of division (G) above be elevated so that either:

(1) The lowest floor of the manufactured home is at least one foot above the base flood elevation; or

(2) 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 division (F) above.

(I) Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either: be on the site for fewer than 180 consecutive days; be fully licensed and ready for highway use; or meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this chapter. A recreational vehicle is ready for highway use

if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. 06-1609-1, passed 6-16-2009)

Cross-reference:

Definitions of terms, see § 151.03

§ 151.08 SUBDIVISION APPLICATIONS.

The governing body of the city shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

(A) All such proposed developments are consistent with the need to minimize flood damage;

(B) Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas;

(C) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(D) All public utilities and facilities are located so as to minimize or eliminate flood damage. (Ord. 06-1609-1, passed 6-16-2009)

§ 151.09 WATER AND SEWAGE SYSTEMS.

(A) New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into flood waters.

(B) Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.10 STORAGE OF MATERIAL AND EQUIPMENT.

(A) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.

(B) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.11 FLOOD-CARRYING CAPACITY WITHIN ANY WATERCOURSE.

(A) The governing body of the city will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(B) The city will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Department of Natural Resources) prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.

(C) Moreover, the city will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Insurance Program in accordance with the Nebraska Disaster Protection Act of 1973. (Ord. 06-1609-1, passed 6-16-2009)

§ 151.12 VARIANCE PROCEDURES.

(A) The Board of Zoning Adjustment as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Zoning Administrator in the enforcement or administration of this chapter.

(C) Any person aggrieved by the decision of the Board of Zoning Adjustment or any taxpayer may appeal such decision to the District Court as provided in Neb. RS 19-912.

(D) In passing upon such applications, the Board of Zoning Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility of the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) Conditions for variances:

(1) Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases;

(2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinance/resolutions.

(5) (a) The applicant shall be given a written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property.

(b) Such notification shall be maintained with the record of all variance actions as required by this chapter.

(Ord. 06-1609-1, passed 6-16-2009)

Cross-reference:

Definitions, see § 151.03

§ 151.13 NONCONFORMING USE.

(A) A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

(1) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months; and

(2) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

(B) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory or Historic Places.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.14 ABROGATION AND GREATER RESTRICTIONS.

(A) It is not intended by this chapter to repeal, abrogate or impair any existent easements, covenants or deed restrictions; however, where this chapter imposes greater restrictions, the provision of this chapter shall prevail.

(B) All other ordinance inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.15 INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.16 WARNING AND DISCLAIMER OF LIABILITY.

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study.

(B) Larger floods may occur on rare occasions or the flood height may be increased by human-made or natural causes, such as ice jams and bridge openings restricted by debris.

(C) This chapter does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be from flooding or flood damage.

(D) This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.17 APPEAL.

Where a request for a permit to develop or a variance is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Zoning Adjustment.

(Ord. 06-1609-1, passed 6-16-2009)

§ 151.18 CONFLICTING PROVISIONS.

(A) This chapter shall take precedence over conflicting ordinances or parts of ordinances.

(B) The governing body of the city may, from time to time, amend this chapter to reflect any and all changes in the National Flood Disaster Protection Act of 1973.

(C) The regulations of this chapter are in compliance with the National Flood Insurance Program Regulations as published in C.F.R. Title 44 and the 1983 Nebraska Floodplain Management Act. (Ord. 06-1609-1, passed 6-16-2009)

§ 151.99 PENALTY.

(A) (1) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor.

(2) Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(B) Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. 06-1609-1, passed 6-16-2009)

