

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

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GENERAL PROVISIONS**§ 150.001 BUILDING INSPECTOR.**

(A) *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 all work stopped on any construction, alteration or relocation which violates any provisions prescribed herein. He or she shall 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 24 hours. Such written order may be served by any municipal police officer. (1976 Code, § 9-101)

(B) *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. (1976 Code, § 9-102)

(C) *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 sit and act as the Municipal Board of 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. (1976 Code, § 9-103)

(D) *Barricades and lights.* It shall be the duty of the owner, tenant or lessee causing the construction, demolition or moving of any building or improvement within the municipality to have during such work all excavations, open basements, building materials and debris protected by suitable guards or barricades by day and by warning lights at night. The failure, neglect or refusal of said persons to erect such guards shall constitute a violation of this section and the municipal police or the Building Inspector shall stop all work until guards are erected and maintained as required.

(1976 Code, § 9-104)

Penalty, see § 150.999

§ 150.002 BUILDING PERMITS.

(A) *Permit required.* Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish or relocate any building or dwelling, or cause the same to be done, shall file with the Building Inspector an application for a building permit. The application shall be in writing on a form to be furnished by the Building Inspector 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 Building Inspector shall be checked and examined by the governing body and, if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the Building Inspector shall issue the said applicant a permit. 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.

(1976 Code, § 9-201)

(B) *Permit limitation.*

(1) If the work for which a permit has been issued shall not have begun within one year of the date thereof, or if the construction shall be discontinued for a period of one year, the permit shall be void.

(2) Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

(1976 Code, § 9-202)

(C) *Duplicate to County Assessor.* Whenever a building permit is issued for the erection, alteration or repair, of any building within the city's jurisdiction, and the improvement is \$2,500 or more, a duplicate of such permit shall be issued to the County Assessor.

(1976 Code, § 9-203)

(D) *Curb and gutter installation required.* Any person applying for a building permit with regard to a residential property or any other structural improvement in a residential district shall first be

required to demonstrate that curb and gutter, meeting the requirements of the Building Inspector, is installed for the property which is the subject of the building permit application.

(1976 Code, § 9-204)

(Ord. 624, passed 8-23-1979; Ord. 1292, passed 7-9-2001; Ord. 1353, passed 8-11-2004) Penalty, see § 150.999

Statutory reference:

Related provisions, see Neb. RS 17-130 through 17-132, 17-550, 17-1001, 18-1743

PLUMBERS AND ELECTRICIANS

§ 150.015 LICENSE REQUIRED.

(A) Any plumber wishing to do business in connection with the water works or sewer system of the municipality shall, before receiving a license, file in the office of the City Clerk an application in writing asking to become a licensed plumber of the municipality, which application shall set forth his or her name and the name of each member of his or her firm, if any, his or her place of business and stating his or her willingness to be governed by the rules and regulations now or to be hereafter adopted by the City Council concerning his or her business. Before receiving a license, he or she shall also file in the office of the City Clerk, proof of liability insurance acceptable to the City Clerk, which liability insurance shall be renewed annually. The licensee shall indemnify and keep harmless the city and the City Clerk from all liability from accidents and damages arising from any negligence or unskillfulness in doing or protecting his or her work, or from any unfaithful or inadequate work done in pursuance of his or her license, and that he or she will also restore the streets, sidewalks and pavement in as good condition as he or she found them and keep and maintain the same in good order to the satisfaction of the City Clerk and City Council for a period of six months thereafter; and that he or she will pay all fines imposed upon him or her for the violation of any rules and regulations adopted by the said municipality and in force during the term of his or her license. The license herein mentioned shall be issued by the Clerk, under the seal of the City, when ordered by the Council. The fee charged by the City Clerk for the issuance of said license shall be \$25 annually, with the effective date of the license being from January 1 to December 31 of each year.

(1976 Code, § 10-401)

(B) Any electrician wishing to do business in the municipality shall, before receiving a license, file in the office of the City Clerk an application in writing asking to become a licensed electrician of the municipality, which application shall set forth his or her name and the name of each member of his or her firm, if any, his or her place of business, and stating his or her willingness to be governed by the rules and regulations now or to be hereafter adopted by the City Council concerning his or her business. Before receiving a license, he or she shall also file in the office of the City Clerk, proof of liability insurance acceptable to the City Clerk, which liability insurance shall be renewed annually. The licensee

shall indemnify and keep harmless the city and the City Clerk from all liability from accidents and damages arising from any negligence or unskillfulness in doing or protecting his or her work, or from any unfaithful or inadequate work done in pursuance of his or her license; and he or she will also restore the streets, sidewalks and pavement in as good condition as he or she found them and keep and maintain the same in good order to the satisfaction of the City Clerk and City Council for a period of six months thereafter; and that he or she will pay all fines imposed upon him or her for the violation of any rules and regulations adopted by the said municipality and in force during the term of his or her license. The license herein mentioned shall be issued by the Clerk, under the seal of the city, when ordered by the Council. The fee by the City Clerk for the issuance of said license shall be \$25 annually, with the effective date of the license being from January 1 to December 31 of each year.

(1976 Code, § 10-402)

(Ord. 1274, passed 1-10-2000) Penalty, see § 150.999

§ 150.016 ELECTRICIANS; QUALITY OF WORK; EXAM.

(A) *Forfeiture of license.* Any electrician who shall be guilty of violation of any of the rules and regulations adopted by the City Council shall forfeit his or her license, such violations shall be determined by the City Council at a hearing to be held at any regular or special meeting. A forfeiture of the license of any electrician shall operate as a suspension of the license held by the co-partner in the same business, or by any person in his, her or their employ.

(1976 Code, § 10-403)

(B) *Quality of work.* All electrical work shall be skillfully done and in the manner required by the City Council and shall be subject to inspection and approval; the quality and pattern of all appurtenances shall, in like manner, be subject to approval.

(1976 Code, § 10-404)

(C) *License required.* No person shall install any electric apparatus within the corporate limits without first having obtained a license to do so as hereinafter provided. In addition, no licensed electrical contractor, master electrician or journeyman electrician may lend his or her license to any person or knowingly permit the use thereof by another. The Electrical Inspector shall recommend and the Examining Board shall issue licenses to those persons who have been issued a valid and unexpired electrician's license by the state; provided, said persons shall have complied with the other terms and conditions precedent to the issuance of licenses as required in this subchapter. In the event that the applicant holds a license issued by the state, the license required herein shall be in the form of an occupation tax certificate. Application for a license shall be made to the Utilities Superintendent in writing showing the name and residence of the applicant, the business location of the applicant and such other information as may be required.

(1976 Code, § 10-405)

(D) *Examination.*

(1) In the event that the applicant is not a holder of a valid and unexpired license issued by the state, or holds a current license which is of a classification less than the classification needed to do the work proposed, the applicant shall submit to an examination to determine his or her fitness and competency for executing the work covered by the license for which application is made, which examination shall be given by the Examining Board for Electricians. Upon payment of the required fees, such applicant shall receive such license, after having shown himself or herself to be fit, competent and qualified to the satisfaction of the Examining Board by said examination to receive such license. Any person who fails to pass the required examination shall not be eligible to take the examination again until six months have elapsed, but, within six months, he or she may take an examination for a lesser grade of license.

(2) The examination shall consist of two parts:

(a) Written examination, which shall count as 50%; and

(b) Personal interview and past experience, which shall count as 50%.

(3) The examination shall be passed to the satisfaction of the Examining Board. A grade of 75% shall be considered as passing. An examination fee set by resolution of the governing body shall be paid to the Utilities Superintendent upon application for a license.

(1976 Code, § 10-406)

(E) *Expiration and renewal of certificate of registration.* Registration certificates shall expire on December 31 of the year in which they are issued and shall not be assignable. Certificates of registration, at the time of their expiration, may be renewed upon recommendation of the Examining Board, without an examination, upon payment of the required registration fee. Any person registered as a master electrician who does not renew his or her certificate of registration by July 1 after the expiration of same, shall pay any registration fee required by this chapter for a master electrician, and shall again prove his or her qualification to the Examining Board before such person can again be registered hereunder.

(1976 Code, § 10-407)

(Ord. 703, passed 8-5-1982; Ord. 704, passed 8-5-1982; Ord. 705, passed 8-5-1982) Penalty, see § 150.999

Statutory reference:

Related provisions, see Neb. RS 81-566, 81-579, 81-586, 81-592, 81-5,100

NATIONAL CONSTRUCTION CODES**§ 150.030 BUILDING CODE.**

The International Building Code, 2012 Edition, including appendix chapters applicable, as published by the International Code Council, Inc., is hereby adopted as the Building Code of the city for establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; providing, the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and providing for the condemnation of buildings and structures unfit for human occupancy and use and for the demolition of such buildings and structures. Each and all of the regulations, provisions, penalties, conditions and terms of the Building Code are hereby referred to, adopted and made a part hereby, as if fully set out in this section with the additions, insertions, deletions and changes, if any, prescribed in this section. The Building Code, printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as such code does not conflict with the statutes of the state. One copy of the Building Code is on file at the office of the Municipal Clerk and is available for public inspection at any reasonable time. The provisions of the Building Code shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1976 Code, § 9-501) (Ord. 1352, passed 11-8-2004; Ord. 1426A, passed 10-24-2011; Ord. 1436, passed 11-4-2013)

§ 150.031 RESIDENTIAL CODE.

The International Residential Code, 2012 Edition, including appendix chapters applicable, as published by the International Code Council, Inc., is hereby adopted as the Residential Code of the city for regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the city and providing for the issuance of permits and collection of fees therefor. Each and all of the regulations, provisions, penalties, conditions and terms of the Residential Code are hereby referred to, adopted and made a part hereof as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in this section. The Residential Code, printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as such code does not conflict with the statutes of the state. One copy of the Residential Code is on file at the office of the Municipal Clerk and is available for public inspection at any reasonable time. The provisions of the Residential Code shall be controlling throughout the city and throughout the zoning jurisdiction.

(1976 Code, § 9-502) (Ord. 1352, passed 11-8-2004; Ord. 1426A, passed 10-24-2011; Ord. 1431, passed 5-21-2012; Ord. 1436, passed 11-4-2013)

§ 150.032 PLUMBING CODE.

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 International Plumbing Code, 2012 Edition, published by the American Society of Mechanical Engineers, and printed in book or pamphlet form, together with a standard code to prevent the backflow and backsiphonage of harmful material which can contaminate the public water system, printed by the city in pamphlet form, are hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said codes do not conflict with the statutes of the state. Copies of the Plumbing Code and a standard code to prevent backflow and backsiphonage are on file at the office of the Municipal Clerk and are available for public inspection during city office hours. The provisions of the Plumbing Code and the standard code to prevent the backflow and backsiphonage shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1976 Code, § 9-503) (Ord. 1427, passed 5-2-1983; Ord. 947, passed 5-2-1988; Ord. 1027, passed 2-18-1991)

Statutory reference:

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

§ 150.033 ELECTRICAL CODE.

To provide certain minimum standards, provisions and requirements for safe and fire-proof installation, methods of connection and uses of materials in the installation of electrical wiring and appliances, the National Electrical Code, 2012 Edition, as recommended and published by the National Fire Protection Association, and printed in book or pamphlet form, is hereby incorporated by reference, in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the state. Copies of the Electrical Code are on file at the office of the Municipal Clerk and are available for public inspection at any reasonable time. The provisions of the Electrical Code shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1976 Code, § 9-504) (Ord. 1427, passed 5-7-2012)

Statutory reference:

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

§ 150.034 MOBILE HOME BUILDING CODE.

The rules, regulations and requirements as set forth in the Standards for Mobile Homes, National Fire Protection Association, 2011 Edition, and any supplements and amendments thereto hereafter made or adopted by the National Fire Protection Association are hereby incorporated and made a part of the Code as though spread at large herein. Copies of the Mobil Home Building Code are on file at the office of the Municipal Clerk and are available for public inspection at any reasonable time. The provisions of this Code shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1976 Code, § 9-505) (Ord. 1427, passed 5-7-2012)

Statutory reference:

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

§ 150.035 RENTAL HOUSING STANDARDS CODE.

(A) To provide certain minimum standards, provisions and requirements for safe and stable design, construction, uses of materials and maintenance of rental residential dwellings, the regulations promulgated by the U.S. Department of Housing and Urban Development and known as “Section 8 Existing Housing Program”, published by the U.S. Department of Housing and Urban Development, and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said regulations do not conflict with the statutes of the state. The City Council shall have the authority to establish regulations differing from the Section 8 Existing Housing Program, by resolution, and any such resolution is hereby incorporated by reference, and, together with the regulations known as Section 8 Existing Housing Program, shall constitute the Rental Housing Standards Code for the municipality. Three copies of the Rental Housing Standards Code are on file at the office of the Municipal Clerk and are available for public inspection at any reasonable time. The provisions of the Rental Housing Standards Code shall be controlling throughout the municipality.

(B) To ensure compliance with the Rental Housing Standards Code, every residential dwelling unit within the municipality which is not occupied by a person who is a record title owner of said unit, shall be inspected by the municipality and brought into compliance with this Code by the owner or owners of said dwelling at the time of a change of occupancy of said unit.

(C) An inspection shall not be required if, within the two-year period immediately preceding the change of occupancy, a change of occupancy occurred in the unit which resulted in an inspection and certification of compliance with the Rental Housing Standards Code. All costs of compliance with the Rental Housing Standards Code shall be paid by the owner of the unit. The owner of the dwelling shall pay a fee of \$25 for the inspection required under this section. The Municipal Building Inspector is hereby authorized to reduce the required inspection fee to no less than \$10 for each rental dwelling unit for owners of multiple rental dwelling units who agree to have a sufficient number of said owner’s dwelling units inspected at least once every two years regardless of change in occupancy. The Building Inspector shall determine eligibility for the reduced inspection fee.

(D) The owner of a residential dwelling unit shall have a period of 60 days from the date of initial inspection to bring the unit into compliance with the Code. An additional 60-day period shall be allowed, upon payment of a fee of \$25 for said extension to the city; provided that, the extension fee must be paid prior to the expiration of the initial 60-day period. Any further extension must be requested by the City Council prior to the expiration of the original period allowed for compliance, and the City Council shall have the authority to grant or deny requests for additional extensions of time.

(E) An owner of a residential dwelling unit who has failed to report a change of occupancy which requires an inspection; failed to allow the municipality to inspect a residential dwelling covered by this section; failed to pay fees required under this section; failed to bring a dwelling into compliance with the Code within the time allowed to said owner, or an owner in violation of any other aspect of this section, shall be guilty of a misdemeanor, and a new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

(F) Notwithstanding the above, the Municipal Building Inspector shall have the authority to order

an inspection of any residential dwelling covered by this section for the purpose of determining whether or not said dwelling is in compliance with the Code. No fee shall be required for the inspection ordered by the Building Inspector under this provision. If it is determined, after any such inspection, that a dwelling is not in compliance, all owners of said dwelling shall be in violation of this section until said dwelling is brought into compliance with this section, and a new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

(1976 Code, § 9-506) (Ord. 1045, passed 12-9-1991; Ord. 1102, passed 12-6-1993; Ord. 1211, passed 3-18-1996)

Statutory reference:

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

§ 150.036 MECHANICAL CODE.

To provide certain minimum standards, provisions, and requirements for the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling, refrigeration systems, incinerations or other miscellaneous heat-producing appliances in the city, the Uniform Mechanical Code, 2012 Edition, published by the international Conference of Building Officials, and published in book or pamphlet form, is hereby incorporated by reference in addition to all amended additions as though printed in full herein insofar as said Code does not conflict with the statutes of the state. Three copies of the Mechanical Code are on file at the office of the Municipal Clerk and are available for public inspection at any reasonable time. The provisions of the mechanical code shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1976 Code, § 9-507) (Ord. 1085, passed 3-8-1993)

Statutory reference:

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

MOVING BUILDINGS

§ 150.050 “BUILDING” DEFINED.

(A) The word ***BUILDING***, for purposes of this subchapter, shall mean a structure designed, built or occupied as a shelter or roofed enclosure for person, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes.

(B) A structure which, when loaded, does not violate any width, height, length or weight restrictions for movement upon the public highways of the state shall not fall within this definition.

(1976 Code, § 9-301) (Ord. 1106, passed 6-6-1994)

§ 150.051 PERMIT REQUIRED.

No person shall move any building over, along or across any highway, street or alley within the corporate limits of the city without first obtaining a permit from the City Clerk.
(1976 Code, § 9-302) (Ord. 1106, passed 6-6-1994) Penalty, see § 150.999

§ 150.052 PERMIT; APPLICATION.

A person seeking issuance of a permit hereunder shall file an application for such permit with the city's Building Inspector.

(A) *Form.* The application shall be made in writing, upon forms provided by the Building Inspector or otherwise and shall be filed in the office of the Building Inspector.

(B) *Contents.* The application shall set forth:

(1) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;

(2) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the city;

(3) A legal description of the lot to which it is proposed such building be moved, giving lot, block and tract number, if located in the city;

(4) The portion of the lot to be occupied by the building when moved;

(5) The highways, streets and alleys over, along or across which the building is proposed to be moved;

(6) Proposed moving date and hours; and

(7) Any additional information which the Building Inspector shall find necessary to a fair determination of whether a permit should issue.

(C) *Accompanying papers.*

(1) *Tax certificate.* The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of liens and that all taxes and any city assessments or utility charges against the same are paid in full.

(2) *Certificate of ownership or entitlement.* The applicant shall file with the application a written statement or bill signed by the owner, or other sufficient evidence, that he or she is entitled to move the building.

(D) *Fee.* The application shall be accompanied by a permit fee in the amount of \$50. (1976 Code, § 9-303) (Ord. 1106, passed 6-6-1994)

§ 150.053 DUTIES OF BUILDING INSPECTOR.

(A) *Inspection.* The Building Inspector shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit are met.

(B) *Standards for issuance.* The Building Inspector shall refuse to issue a permit if he or she finds:

- (1) Any application requirement or any fee or deposit requirement has not been complied with;
- (2) The building is too large to move without endangering persons or property within the city;
- (3) The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons or property within the city;
- (4) The building is structurally unsafe or unfit for the purpose for which moved, if the removal location is within the city;
- (5) The applicant's equipment is unsafe and that the persons or property would be endangered by its use;
- (6) Zoning or other ordinances would be violated by the building in its new location; and
- (7) For any other reason persons or property in the city would be endangered by the moving of the building.

(C) *Estimate to the city.* The Building Inspector shall procure from the city's Street Department and the city's Utilities Department an estimate of the expense that will be incurred in removing and replacing any electric wires, street lamps or pole lines belonging to the city or any other property of the city, the removal and replacement of which will be required, reason of the moving of the building through the city, together with the cost of materials necessary to be used in making such removals and replacements. Prior to the issuance of the permit, the Building Inspector shall require of the applicant a deposit of a sum of money equal to the amount of the estimated expense or \$500, whichever is greater.

(D) *Notice.* When the Building Inspector shall determine that the moving of a building shall interfere with any gas mains, telephone or telegraphs poles or wires, cable television wires or equipment, or other

public or private facilities, said Building Inspector shall give notice to the person, business or franchise owning such facilities of the provisions of any proposed moving permit.

(E) *Designate streets for removal.* The Building Inspector shall procure from the Public Streets and Utilities Departments a list of the designated streets over which the building may be moved. The Building Inspector shall have the list approved by the Chief of Police and shall reproduce the list upon the permit in writing. In making their determinations, the Street Department and Utilities Department and Chief of Police shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.

(1976 Code, § 9-304) (Ord. 1106, passed 6-6-1994)

§ 150.054 DAMAGE DEPOSITS.

(A) *General.* An application hereunder shall be accompanied by a cash deposit in the sum of \$10,000 as an indemnity for any damage which the city may sustain by reason of damage or injury to any highway, street or alley, sidewalk fire hydrant or other property of the city, which may be caused by or be incidental to the removal of any building over, along and across any street in the city and to indemnify the city against any claim of damages to persons or private property, and to satisfy any claims by private individuals arising out of, caused by or incidental to the moving of any building over, along or across any street in the city. This damage deposit shall be in addition to the permit fee and deposit for expense to the city.

(B) *Bond in lieu of deposit.*

(1) Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the Building Inspector a bond, approved as to form by the City Attorney, executed by a bonding or surety company authorized to do business in the state, in the amount of \$100,000, conditioned upon the assurance that this and other applicable ordinances and laws will be complied with.

(2) Such bond shall run to the city for the use and benefit of any person or persons intended to be protected thereby and shall be conditioned on the payment of any damage to public or private property and the payment of any damages or losses resulting from any malfeasance, misfeasance or non-feasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted.

(C) *Insurance policy in lieu of deposit.* Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the Building Inspector a liability insurance policy, issued by an insurance company authorized to do business in the state, and approved as to form by the City Attorney, in the same amount and providing the same protection as would be required for bond hereunder.

(1976 Code, § 9-305) (Ord. 1106, passed 6-6-1994; Ord. 1422, passed 5-9-2011)

§ 150.055 FEES AND DEPOSITS.

(A) *Deposit.* The Building Inspector shall deposit all fees and deposits and bonds or insurance policies with the City Clerk.

(B) *Return upon non-issuance.* Upon his or her refusal to issue a permit, the Building Inspector shall return to the applicant all deposits, bonds and insurance policies. Permit fees filed with the application shall not be returned.

(C) *Return upon allowance for expense.*

(1) After the building has been removed the Building Inspector shall furnish the City Clerk with a written statement of all expenses incurred in removing and replacing all property belonging to the city, and of all material used in making or the removal or replacement together with a statement of all damage caused to or inflicted upon property belonging to the city.

(2) The City Clerk shall authorize the Building Inspector to return to the applicant all deposits after the City Clerk deducts the sum sufficient to pay for all of the costs and expenses and for all damage done to the property of the city by reason of the removal of the building.

(3) Permit fees deposits with the application shall not be returned.
(1976 Code, § 9-306) (Ord. 981, passed 9-25-1989; Ord. 1106, passed 6-6-1994)

§ 150.056 DUTIES OF PERMIT HOLDER.

Every permittee under this subchapter shall:

(A) *Use designated streets.* Move a building only over streets designated for such use in the written permit;

(B) *Notify of revised moving time.* Notify the Building Inspector in writing of a desired change in moving date and hours as proposed in the application;

(C) *Notify of damage.* Notify the Building Inspector in writing of any and all damage done to property belonging to the city within 24 hours after the damage or injury has occurred;

(D) *Display lights.* Cause red lights to be displayed during the nighttime on every side of the building, while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building;

(E) *Comply with governing law.* Comply with the Building Code, the Fire Code, the zoning ordinances and all other applicable ordinances and laws upon relocating the building in the city;

(F) *Pay expense of officer.* Pay the expense of a traffic officer ordered by the city to accompany the movement of the building to protect the public from injury;

(G) *Clear old premises.* Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition; and

(H) *Remove service connections.* See that the sewer line is properly plugged, the water shut off, electricity disconnected and all meters returned to the city office. The permittee shall notify the gas and cable television companies to remove their services.

(1976 Code, § 9-307) (Ord. 1106, passed 6-6-1994) Penalty, see § 150.999

§ 150.057 ENFORCEMENT.

(A) *Enforcing officers.* The Building Inspector, Police Department and City Clerk shall enforce and carry out the requirements of this subchapter.

(B) *Permittee liable for expense above deposit.* The permittee shall be liable for any expense, damages or costs in excess of deposited amounts or securities, and the City Attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.

(C) *Premises left unsafe.* The city shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where permittee does not comply with the requirements of this subchapter, and the cost thereof shall be charged against the general deposit.

(1976 Code, § 9-308) (Ord. 1106, passed 6-6-1994)

§ 150.058 GENERAL LICENSE NOT TO BE ISSUED.

There shall be no license or general permit given to anyone to move buildings at will or generally within the city.

(1976 Code, § 9-309) (Ord. 1106, passed 6-6-1994)

§ 150.059 CONSENT OF PROPERTY OWNERS.

Buildings, other than modular buildings occupied for less than one year and other buildings of new construction occupied for less than one year, which are otherwise permitted to be moved, shall not be

moved unless written consent and approval is signed by all property owners abutting directly across the street from, and three-fourths of all property owners within 150 feet of the lot to which such building is to be moved.

(1976 Code, § 9-310) (Ord. 1106, passed 6-6-1994) Penalty, see § 150.999

UNSAFE BUILDINGS

§ 150.070 DEFINITION.

The term ***UNSAFE BUILDING***, as used in this subchapter, is hereby defined to mean and include any building, shed, fence or other human-made structure which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures; which because of faulty construction, age, lack of proper repair or any other cause is especially liable to fire and constitutes or creates a fire hazard; which, by reason of faulty construction or any other cause, is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the municipality is hereby declared to be a nuisance.

(1976 Code, § 9-401)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722, 18-1722.01

§ 150.071 PROHIBITION.

It shall be unlawful to maintain or permit the existence of any unsafe building in the municipality and it shall be unlawful for the owner, occupant or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition.

(1976 Code, § 9-402) Penalty, see § 150.999

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722, 18-1722.01

§ 150.072 DETERMINATION AND NOTICE.

(A) Whenever the Building Inspector, the Fire Official, the Health Official or the governing body shall be of the opinion that any building or structure in the municipality is an unsafe building, he or she shall file a written statement to this effect with the Municipal Clerk. The Clerk shall, thereupon, cause the property to be posted accordingly and shall file a copy of such determination in the office of the

county’s Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe condition; and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied within 60 days from the date of receipt. Such notice may be in the following terms:

<p>To _____ (owner-occupant of premises) of the premise known and described as _____ .</p> <p>You are hereby notified that _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____. The causes for this decision are _____ (here insert the facts as to the dangerous condition).</p> <p>You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the municipality will proceed to do so. Appeal of this determination may be made to the governing body, acting as the Board of Appeals, by filing with the Municipal Clerk within ten days from the date of receipt of this notice a request for a hearing.</p>
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(B) If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a dangerous building exists within ten days from the time when this notice is served upon such person by personal service or certified mail, the Building Inspector may, upon orders of the governing body, proceed to remedy the condition or demolish the unsafe building.

(1976 Code, § 9-403)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722, 18-1722.01

§ 150.073 HEARING AND APPEAL.

(A) Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Municipal Clerk request a hearing before the governing body, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The governing body shall grant such hearing within ten days from the date of receiving the request.

(B) A written notice of the governing body’s decision following the hearing shall be sent to the property owner by certified mail. If the governing body rejects the appeal, the owner shall have five days from the sending of the decision to begin repair or demolition and removal. If, after the five-day period, the owner has not begun work, the governing body shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the governing body shall be stayed.

(C) Where the municipality has not adopted a building code, the statutes of the state relating to bonded indebtedness and collection of delinquent taxes shall apply.

(1976 Code, § 9-404)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722, 18-1722.01

§ 150.074 EMERGENCY.

Where any unsafe building or structure poses an immediate danger to the health, safety or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the Building Inspector to do so, the municipality may summarily repair or demolish and remove such building or structure.

(1976 Code, § 9-405)

§ 150.075 SPECIAL ASSESSMENTS.

(A) If any owner of any building or structure fails, neglects or refuses to comply with notice by or on behalf of the municipality to repair, rehabilitate or demolish and remove a building or structure which is unsafe and a public nuisance, the municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the governing body.

(B) The governing body may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located and such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or

(2) Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(1976 Code, § 9-406) (Ord. 1020, passed 1-21-1991)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722, 18-1722.01, 77-1725

§ 150.999 PENALTY.

(A) (1) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each

offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 9-601)

(2) (a) Whenever a nuisance exists, as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance 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.

(1976 Code, § 9-602)

(B) Any person who shall violate or refuse to comply with the enforcement of §§ 150.015 and 150.016 of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 10-1201)

(Ord. 1449, passed 12-23-2013)

Statutory reference:

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

CHAPTER 151: STREETS, SIDEWALKS AND PUBLIC PROPERTY

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GENERAL PROVISIONS

§ 151.001 CUTTING PAVING, CURB OR SIDEWALK.

(A) It shall be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Public Services Commissioner. The application for such permit shall contain the following information:

- (1) The addition, block and lot which the improvement is to serve;
- (2) The location of the proposed improvement with reference to adjacent lot lines; and
- (3) The width of the improvement and type of surface which the improvement will connect.

(B) Upon the application being filed, it shall be the Public Services Commissioner's duty to inspect the place of entry into the paving, sidewalk or curb and approve such application on such terms and conditions, including starting and completion dates, as he or she determines necessary. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the Public Services Commissioner or the City Engineer. When the applicant is ready to close the opening made, he or she shall inform the Public Services Commissioner, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Commissioner, under the supervision and inspection of the City Administrator or the City Engineer, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.

(C) Before any permit is issued, the applicant for such permit shall deposit with the City Treasurer a sum set by resolution of the City Council for all paving curb or sidewalk to be cut. Such sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the city for the purpose of replacing the paving, curb or sidewalk in the event the work is done by the city. In the event the city elects to require the applicant to replace the paving, curb or sidewalk, the deposit shall be retained by the city until the work is completed to the satisfaction of the Public Services Commissioner. In lieu of making the deposit above set forth, the applicant may, before any permit is issued, execute a bond to the city with a good and sufficient surety or sureties to be approved by the City Council for the total cost of the improvement.

(D) In the event that the work has not been completed by the completion date as set forth on the approved application, the city may cancel the permit if work has not commenced, complete the work and retain a sufficient sum of the deposit to reimburse the city for such completion work or serve notice on the applicant's bonding company of such failure to complete the work, and if necessary file legal action on applicant's bond.

(1976 Code, § 8-401) (Ord. 1490, passed 7-20-2020) Penalty, see § 151.999

§ 151.002 UTILITIES USING MUNICIPAL PROPERTY; FEE.

(A) *Franchise fee imposed.* The City Council hereby determines that the municipality incurs expenses and liabilities because of the use by utility systems operating within the municipality on public rights-of-way and easements belonging to the city and that said utilities shall henceforth make payment for such expenses and liabilities in the form of franchise fee payable to the city, as hereinafter set forth. (1976 Code, § 8-501)

(B) *Amount of franchise fee.* There is hereby assessed against each public utility making use of public rights-of-way and easements located within the city a franchise fee equal to 8% of such utility's gross billing of revenues from sales within the jurisdiction of the city; provided that, this franchise fee shall not apply to any privately owned utility located in the municipality presently operating under a franchise granted by the municipality.

(1976 Code, § 8-502)

(C) *Franchise fee; monthly payment.* Each utility subject to the provisions of this section shall pay to the City Treasurer on a time schedule established by the said City Clerk a monthly payment equal to 8% of the utility's gross receipts for such month derived from sales of its service or product located within the jurisdiction of the city. Such utility shall make available to the City Treasurer a monthly report or statement showing the amount of total gross receipts which are the basis for which payment of franchise fees described herein are paid to the municipality.

(1976 Code, § 8-503)

(Ord. 1012, passed 10-22-1990)

§ 151.003 RAILROAD COMPANIES.

(A) *Safe crossings.* It shall be the duty of every railroad company doing business in, or traveling through, the municipality to keep in a suitable, and safe condition the crossings and right-of-way in the municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the governing body may, by resolution, call upon the said company to make whatever repairs that they may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail, or neglect to repair, and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed, and is hereby made a separate, and distinct offense against the provisions herein.

(1976 Code, § 10-601)

(B) *Lighting.* It shall be the duty of all railroad companies owning, operating and maintaining a railroad through the municipality to sufficiently light all crossings and to install as many signal systems as the governing body shall deem necessary at the expense of the said company.

(1976 Code, § 10-602) Penalty, see § 151.999

Statutory reference:

Related provisions, see Neb. RS 17-143, 17-144, 17-561

MUNICIPAL PROPERTY**§ 151.015 DEFINITION.**

The term ***SIDEWALK SPACE***, as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

(1976 Code, § 8-101)

§ 151.016 MAINTENANCE AND CONTROL.

The governing body shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons within the municipality, and shall cause the same to be kept open and in repair and free from nuisances.

(1976 Code, § 8-102)

Statutory reference:

Related provisions, see Neb. RS 17-567

§ 151.017 SALE AND CONVEYANCE OF REAL PROPERTY.

(A) Except as provided in division (G) below, the power of the municipality to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of that property and the manner and terms of such sales; except that, the property shall not be sold at public auction or by sealed bid when:

- (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) The property is being conveyed to another public agency; or
- (3) The property consists of streets and alleys.

(B) The governing body may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) above and the terms of such sales shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the municipality.

(D) (1) If, within 30 days after the third publication of the notice, a remonstrance petition against the sale is signed by registered voters of the municipality equal in number to 30% of the registered voters of the municipality voting at the last regular municipality election held therein and is filed with the governing body, that property shall not then, nor within one year thereafter, be sold. If the date of filing the petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon receipt of the remonstrance, the governing body, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the petition. The governing body shall deliver the petition to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the petition, the Election Commissioner or County Clerk shall issue to the governing body a written receipt that the petition is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the governing body. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and municipality or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and municipality or post office address match the registration records and that the registration was received on or before the date on which the petition was filed with the governing body. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the governing body find sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition and the qualifications of the signer, shall be to prevent fraud and misrepresentation in the petition process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found and, if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the Election Commissioner or

County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall, certify to the governing body the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the governing body within 40 days after the receipt of the remonstrance from the governing body. The delivery shall be by hand carrier, by use of law enforcement officials or by certified mail return receipt requested. Not more than 20 signatures on one signature page shall be counted.

(6) The governing body shall, within 30 days after the receipt of the remonstrance and certification from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The governing body shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the municipality may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

(F) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

(G) Divisions (A) through (F) above shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the municipality for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(1976 Code, § 8-103)

(Ord. 671, passed 9-17-1981; Ord. 702, passed 8-5-1982; Ord. 1147, passed 2-6-1995; Ord. 1205, passed 1-22-1996; Ord. 1350, passed 11-8-2004; Ord. 1479, passed 2-5-2018)

Statutory reference:

Related provisions, see Neb. RS 17-503, 17-503.01

§ 151.018 SALE AND CONVEYANCE OF PERSONAL PROPERTY.

(A) The power of the city to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution

directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the city at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

(B) Personal property may be conveyed notwithstanding the procedure in division (A) above when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs; or

(2) Such property is being conveyed to another public agency.
(1976 Code, § 8-103.1) (Ord. 1350, passed 11-8-2004)

Statutory reference:

Related provisions, see Neb. RS 17-503.02

§ 151.019 OBSTRUCTIONS.

(A) (1) Trees and shrubs, growing upon, or near the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this subchapter. Said trees and shrubs, or the roots thereof, may be removed by the municipality at the expense of the owner of the property upon which the tree or shrubs are located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm or corporation to obstruct or encumber, by fences, gates, buildings, structures or otherwise, any of the streets, alleys, sidewalk space, sidewalks, public ways or public grounds. The prohibition against the obstruction of sidewalk space or sidewalks shall not be construed as being a prohibition of sidewalk sales in the business district, but retail merchants shall be prohibited hereby from materially obstructing or encumbering the sidewalk space or sidewalks during sidewalk sales to an extent that the area for walking thereon is materially reduced.

(2) Whenever the owner of any obstruction, encumbrance or encroachment upon any street, alley, sidewalk space, sidewalk, public way or public ground within the municipality refuses, or neglects to remove the same after receiving notice to do so, or after diligent search, cannot be found for the purpose of giving such notice to the owner, such obstruction, encumbrance or encroachment shall be deemed a public nuisance and it shall be the duty of the Street Commissioner to cause the same to be removed or taken down and the expenses thereof shall be recoverable from the owner in an action at law. In addition, the owner of the obstruction, encumbrance or encroachment shall be guilty of a misdemeanor and shall, upon receiving notice, and conviction, to be fined for each and every day that the obstruction, encumbrance or encroachment remains on public property.

(3) The provisions of this section shall not apply to mailboxes and supports for mailboxes upon streets within the municipality which have been designated as rural routes for postal delivery service by

the United States Postal Service; provided that, said mailboxes must be approved by the Postal Service and that no part of any such mailbox or its supporting structure shall extend more than six inches over the curb from the line between the curb and sidewalk or more than 12 inches over the sidewalk from the line between the curb and sidewalk.

(1976 Code, § 8-104)

(B) (1) The municipality shall have the power to remove all obstructions from the sidewalks, curbstones, gutters and crosswalks at the expense of the person placing them there or at the expense of the municipality and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(2) The municipality shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projection upon or over and adjoining, and all other excavations through and under the sidewalks in the municipality.

(1976 Code, § 8-104.1)

(C) (1) The municipality shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys and other municipal property.

(2) (a) If the abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (C)(1) above, the municipality through the proper officers may cause such encroachments to be removed and the cost of removal shall be paid out of the Street Fund.

(b) The governing body shall assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment.

(3) Upon payment of the assessment, the assessment shall be credited to the Street Fund.

(1976 Code, § 8-104.2)

(D) Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the Street Commissioner to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked or repaired shall be granted; and, provided further, a suitable passageway for pedestrians shall

be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the Street Commissioner.

(1976 Code, § 8-105)

(Ord. 599, passed 1-18-1979; Ord. 1111, passed 7-11-1994; Ord. 1238, passed 9-8-1997; Ord. 1461, passed 2-8-2016) Penalty, see § 151.999

Statutory reference:

Related provisions, see Neb. RS 17-555, 17-557, 17-557.01

§ 151.020 WEEDS.

It is hereby the duty of the Street Commissioner or his or her duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he or she shall notify the owner or occupant thereof, to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds. In the event that the owner of any lot or parcel of land within the municipality is a non-resident of the municipality or cannot be found therein the notice may be given to any person having the care, custody or control of such lot or parcel of land. In the event that there can be found no one within the municipality to whom notice can be given, it shall be the duty of the Street Commissioner or his or her agent to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the governing body. The cost shall then be audited and paid by the municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon at the rate of \$7.50 per hour, and shall be collected as are other taxes of the municipality or may be recovered by civil suit brought by the municipality against the owner of the parcel of land. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1976 Code, § 8-106)

§ 151.021 ACQUISITION OF PROPERTY; CONSTRUCTION AND THE LIKE.

(A) (1) The municipality is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect and erect a building or buildings for an auditorium, fire station, municipal building or community house for housing municipal enterprises and social and recreation purposes, and other public buildings, and maintain, manage and operate the same for the benefit of the inhabitants of the municipality.

(2) Except as provided in division (A)(3) below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the municipality at a general municipal

election or at an election duly called for that purpose, or as set forth in Neb. RS 17-954, and be adopted by a majority of the electors voting on such question.

(3) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue then either:

(a) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the municipality and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the municipality equal in number to 15% is filed with the governing body. If the date for filing the remonstrance falls upon a Saturday, Sunday or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next question shall be submitted to the voters of the municipality voting at the last regular municipal election held therein and is filed with the governing body. If the date for filing the remonstrance falls upon a Saturday, Sunday or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the questions shall be submitted to the voters of the municipality at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

(b) The governing body may proceed without providing the notice and right of remonstrance required in division (A)(3)(a) above if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.

(4) The purchase shall be approved by the governing body after notice and public hearing as provided in Neb. RS 18-1755.
(1976 Code, § 8-107)

(B) When acquiring an interest in real property by purchase or eminent domain, the municipality shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and public hearing.
(1976 Code, § 8-108)

(C) The municipality shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real estate appraiser.
(1976 Code, § 8-109)
(Ord. 672, passed 9-17-1981; Ord. 1157, passed 2-6-1995; Ord. 1158, passed 2-6-1995; Ord. 1206, passed 1-22-1996)

Statutory reference:

Related provisions, see Neb. RS 13-403, 17-953, 17-953.01, 18-1755

§ 151.022 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING.

(A) (1) Except as otherwise provided in this section and Neb. RS 81-349 and 81-3453, the municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications and estimates have been prepared and the construction has been observed by an architect, a professional engineer or a person under the direct supervision of an architect, professional engineer or those under the direct supervision of an architect or professional engineer.

(2) This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed \$100,000 or the adjusted dollar amount set by the Board of Engineers and Architects.

(B) The provisions of division (A) above regulating the practice of architecture do not apply to the following activities or the other activities specified in Neb. RS 81-3449:

(1) Any alteration, renovation or remodeling of a building if the alteration, renovation or remodeling does not affect architectural or engineering safety features of the building;

(2) A public service provider who employs a design professional performing professional services for itself;

(3) The practice of any other certified trade or legally recognized profession;

(4) Earthmoving and related work associated with soil and water conservation practices performed any land owned by the municipality that is not subject to a permit from the Department of Natural Resources; and

(5) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs and land use regulations and their customary duties in utility and public works construction, operation and maintenance.

(C) The provisions of division (A) above regulating the practice of engineering do not apply to the following activities, the activities specified, in division (B) above, or the other activities specified in Neb. RS 81-3453:

(1) These services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant; and

(2) The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply.

(D) For the purpose of this section, the municipality is considered a public service provider if it employs or appoints an architect or a professional engineer to be in responsible charge of the municipality's architectural or engineering work.

(1976 Code, § 8-110) (Ord. 1360, passed 11-8-2004; Ord. 1426B, passed 12-5-2011; Ord. 1461, passed 2-8-2016)

Statutory reference:

Related provisions, see Neb. RS 81-3423, 81-3449, 81-3453

SIDEWALKS

§ 151.035 OVERHANGING BRANCHES.

(A) The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet above the surface of said street or walk.

(B) Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights, or with the convenience of the public using said street or sidewalk, the governing body at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy thereof from the Street Commissioner stating that the municipality will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said resolution is not complied with.

(C) In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner.

(D) The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1976 Code, § 8-201) Penalty, see § 151.999

Statutory reference:

Related provisions, see Neb. RS 17-557.01

§ 151.036 SIDEWALKS TO BE KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 a.m. the following day; provided, sidewalks within the residential areas of the municipality shall be cleaned within 24 hours after the cessation of the storm.

(1976 Code, § 8-202) Penalty, see § 151.999

Statutory reference:

Related provisions, see Neb. RS 17-557

§ 151.037 OBSTRUCTIONS.

(A) The city may remove all obstructions from the sidewalks, curbstones, gutters and crosswalks at the expense of the person placing them there or at the expense of the city and require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(B) The city may regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projecting upon or over and adjoining and all other excavations through and under the sidewalks in the city.

(Ord. 1468, passed 2-6-2017)

Statutory reference:

Related provisions, see Neb. RS 17-555

§ 151.038 REPAIR.

(A) The Mayor and City Council may construct and repair sidewalks, or cause the construction and repair of sidewalks in such manner as the Mayor and City Council deems necessary and assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice:

(1) By publication in one issue of a legal newspaper of general circulation in the municipality;
and

(2) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such repair or construction.

(B) The notice shall:

- (1) State that the governing body has ordered repair of the sidewalk;
- (2) Contain the municipality's estimate of the cost of the repair;

(3) Notify the property owner that he or she may, within ten days after the date of publication of the notice, notify the municipality that he or she will repair the sidewalk within 30 days after such date of publication; and

(4) Notify the property owner that if he or she fails to so notify the municipality within the ten days or, having so notified the municipality, fails to repair the sidewalk within the 30 days, the municipality will cause the sidewalk to be repaired and the expense thereof to be assessed against the property.

(C) (1) Before the municipality imposes any special assessments for sidewalk repair, a copy of the notice that is required to be published shall be mailed to the last-known address of all non-resident property owners as shown on the current tax rolls at the time such notice is first published.

(2) The Municipal Clerk shall mail the notice by certified mail with return receipt requested.

(3) For purposes of this division (C), ***NON-RESIDENT PROPERTY OWNER*** means any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property.

(D) All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the governing body.

(E) Assessments made under this section shall be made and assessed in the manner provided in Neb. RS 17-524.

(1976 Code, § 8-204) (Ord. 1361, passed 11-8-2004) Penalty, see § 151.999

Statutory reference:

Related provisions, see Neb. RS 13-310, 13-312, 13-314, 17-522

§ 151.039 CONSTRUCTION BY OWNER.

(A) (1) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided.

(2) It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) Said owner shall make application in writing for a permit and file such application in the office of the City Administrator or Street Commissioner. The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed. The City Administrator or Street Commissioner shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the City Administrator or Street Commissioner shall submit the application to the governing body who shall determine whether the permit should be granted or denied.

(C) All sidewalks shall be constructed of concrete, glass, iron or a combination of such materials. In the fire limits, all sidewalks shall be constructed plumb with the lot lines, unless the governing body by resolution otherwise order. Within the fire limits, all sidewalks shall extend in width from lot line to curb, if any, and in no event less than eight feet in width and elsewhere within the corporate limits, all sidewalks shall be laid four feet in width, unless the governing body, by resolution, otherwise orders. It shall be unlawful for any person to construct, or cause to be constructed said sidewalk at any other location, grade or elevation and, if there is no established grade, then on the grade or elevation indicated by the City Administrator or Street Commissioner.

(1976 Code, § 8-205) Penalty, see § 151.999

§ 151.040 CONSTRUCTION BY MUNICIPALITY; BIDS.

(A) (1) The governing body may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the municipality. Notice of the governing body's intention to construct said sidewalk shall be given by the Municipal Clerk by publication of notice one time in a legal newspaper of general circulation in the municipality.

(2) A copy of said notice shall be personally served upon the occupant in possession of such property or, when personal service is not possible, said notice shall be posted upon such premises ten days prior to the commencement of construction. The notice required in this section shall be prepared by the Municipal Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

(3) Said notice shall notify the owner of the premise of the passage of the resolution ordering him or her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and, further that, if he or she fails to construct the sidewalk or cause the same to be done within the time allowed, the municipality will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premise; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1976 Code, § 8-206)

(B) Whenever the municipality shall construct, widen, replace or reconstruct any sidewalk, notice prepared by the Municipal Attorney, specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor shall be published in at least one issue of a legal newspaper of general circulation in the municipality; provided, bids so invited shall be filed in the office of the Municipal Clerk within ten days after the date of publication. Bids shall be opened at the next regular or special meeting of the governing body, and the governing body shall then award the work to the lowest responsible bidder. Upon approval of the work, the governing body may require the contractor to accept payment in certificates issued to him by the Municipal Clerk entitling him or her to all assessments or special taxes, against such real estate whenever such assessments or special taxes, shall be collected together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots or parcel of ground against which the assessments or special taxes are assessed. Such certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The County Treasurer shall pay over to such contractor or other holder of the certificate or certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificate or certificates after said assessments or special taxes against such real estate together with interest or penalty thereon shall have been collected.

(1976 Code, § 8-207)

Statutory reference:

Related provisions, see Neb. RS 17-522, 17-523

§ 151.041 CONSTRUCTION BY PETITION.

If the owners of the record title representing more than 60% of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the governing body to make the same, the governing body shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the governing body may order permanent sidewalks built in accordance with this subchapter upon the freeholder making, executing and delivering to the municipality an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the municipality the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed and specially assessed as provided by law. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1976 Code, § 8-208) (Ord. 621, passed 8-23-1979)

STREETS**§ 151.055 NAMES AND NUMBERS.**

The governing body may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the governing body may require. It shall be the duty of the Street Commissioner, upon the erection of any new building or buildings to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

(1976 Code, § 8-301)

§ 151.056 OPENING, IMPROVING OR VACATING.

(A) The governing body may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravell, macadamize, remacadamize, widen or narrow streets or roadways, resurface or re-lay existing pavement or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the municipal corporate area and the area adjoining the municipality; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, foundations, decorative water ponds, lighting systems and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefitted in proportion to such benefits, except as provided in Neb. RS 19-2428 through 19-2431.

(B) The governing body may, by ordinance, create improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys or public ways, and may include two or more types of the improvements authorized under this section in a single district in one proceeding.

(C) All of the improvements which are to be funded by a levy of special assessment on the property especially benefitted shall be ordered as provided in Neb. RS 17-510 to 17-512, except as otherwise provided in Neb. RS 17-509.

(1976 Code, § 8-302) (Ord. 1479, passed 2-5-2018)

Statutory reference:

Related provisions, see Neb. RS 17-509

§ 151.057 EXCAVATIONS.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Street Commissioner authorizing such excavations.

(1976 Code, § 8-303) Penalty, see § 151.999

§ 151.058 DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Street Commissioner.
(1976 Code, § 8-304) Penalty, see § 151.999

§ 151.059 MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.
(1976 Code, § 8-305) Penalty, see § 151.999

§ 151.060 HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to leak in the gutter of any street, waste gasoline, kerosene or high lubricating oils, which damage or act as a solvent upon said streets.
(1976 Code, § 8-306) Penalty, see § 151.999

§ 151.061 EAVE AND GUTTER SPOUTS.

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the municipality where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.
(1976 Code, § 8-307) Penalty, see § 151.999

§ 151.062 CONSTRUCTION NOTICE.

The governing body shall notify the owners in fee simple of real estate abutting a street, alley or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service and telephone companies. Notice shall also be given to all consumers of gas, water and sewer services which will be discontinued during such construction. Said notice shall be published one time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation

will not be issued, nor will excavation be allowed, until after the completion of the pavement in said street or alley, and the formal final acceptance thereof by the proper officials of the municipality. (1976 Code, § 8-308)

§ 151.063 PIPE LINES AND WIRES.

Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be located, or erected over, upon or under the streets, alleys and common grounds of the municipality. Application for location of the above shall be made to the governing body in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines and other appurtenances at such places and in such manner as shall be designated by the governing body. Such poles, wires, gas mains, pipe lines, and other appurtenances, shall be removed or relocated by said companies at their own expense when requested to do so by the governing body. Any such relocation shall be ordered by resolution of the governing body and the Municipal Clerk shall notify any and all companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines or other appurtenances to be removed. The governing body shall designate another location as closely as possible where said poles, wires, gas mains, pipe lines or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipe lines or other appurtenances shall be reset, placed or erected in such a manner that they will not interfere with the water system; sewerage system; poles, wires and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipe lines or appurtenances shall be confined to the alleys of the municipality. (1976 Code, § 8-309) Penalty, see § 151.999

§ 151.064 STREET AND UTILITY INSTALLATION; LOCATION.

From and after the effective date of this section, any public utilities installed in alleys or other public rights-of-way within the city shall be installed in such a manner that electrical and telephone installations shall be on one side of the alley or other public right-of-way and natural gas piping shall be on the on the other side of such alley or other public right-of-way. The first of such utilities to make installation in such alley or other public right-of-way shall be entitled to choose which side of the alley or public right-of-way on which the installation shall be made, and the installations of such utilities made thereafter shall comply with the intent of this section. (1976 Code, § 8-310) (Ord. 575, passed 6-29-1978) Penalty, see § 151.999

§ 151.065 CONSTRUCTION; ASSESSMENT.

To defray the costs and expenses of street improvements, as may be authorized by law, the governing body shall have power and authority to levy and collect special taxes and assessments upon

the lots and pieces of ground adjacent to, abutting upon or especially benefitting from, the street, avenue, alley or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed or otherwise improved or repaired. The governing body sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law. All special assessments shall be made by the governing body at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published, or of general circulation, in the municipality at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other municipal taxes and shall be certified to the County Clerk by the Municipal Clerk forthwith after the date of levy, for collection by the Treasurer of said county unless otherwise specified. Said assessments shall become delinquent in equal annual installments over such period of years, not to exceed 15, as the governing body may determine, at the time of making the levy, the first such equal installment to become delinquent on the anniversary date which shall be 50 days after the date of such levy. After it shall become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a non-resident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1976 Code, § 8-311)

Statutory reference:

Related provisions, see Neb. RS 17-511, 17-524

§ 151.066 IMPROVEMENTS.

(A) *Of streets on corporate limits.* The Mayor and Council shall have the power to improve any street or part thereof which divides the municipal corporate area and the area adjoining the municipality. When creating an improvement district including land adjacent to the municipality, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby.

(1976 Code, § 8-312)

(B) *Petition for improvements.* Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public ways or the public grounds proposed to be improved, shall be presented and filed with the Municipal Clerk, petitioning therefor, the governing body shall by ordinance create a paving, graveling

or other improvement district or districts, and shall cause such work to be done or such improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley or alleys, especially benefitted thereby in such district in proportion to such benefits, to pay the cost of such improvement. The governing body shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system and grading of streets. If the governing body should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

(1976 Code, § 8-313)

(C) *Improvement districts; objections.* Whenever the governing body deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefitted, the governing body shall by ordinance create a paving, graveling or other improvement district and, after the passage, approval and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the municipality, if a daily newspaper, or for two consecutive weeks if it is a weekly newspaper. If no legal newspaper is published in the municipality, the publication shall be in a legal newspaper of general circulation in the municipality. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the Municipal Clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance, but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the governing body shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefitted in such district in proportion to such benefits to pay the cost of such improvement.

(1976 Code, § 8-314)

(Ord. 622, passed 8-23-1979; Ord. 623, passed 8-23-1979; Ord. 722, passed 9-1-1983; Ord. 1207, passed 1-22-1996)

Statutory reference:

Related provisions, see Neb. RS 17-509, 17-510, 17-511

§ 151.067 DEFERRAL FROM SPECIAL ASSESSMENTS.

(A) (1) Whenever the governing body of a municipality creates a paving district which includes land adjacent to the municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments.

(2) For purposes of this section, the terms ***AGRICULTURAL USE*** and ***AGRICULTURAL USE ZONE*** shall have the meaning specified in Neb. RS 77-1343.

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(B) Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the governing body of the municipality within 90 days after creation of the paving district. Any owner of record title who makes application for the deferral provided by this section shall notify the county's Register of Deeds of such application in writing prior to approval by the governing body. The governing body shall approve the application of any owner of record title upon determination that the property:

- (1) Is within an agricultural use zone and is used exclusively for agricultural use; and
- (2) The owner has met the requirements of this section.

(C) The deferral provided for in this section shall be terminated upon any of the following events:

- (1) Notification by the owner of record title to the governing body to remove such deferral;
- (2) Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in division (C)(3) below;
- (3) Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
- (4) The land is no longer being used as agricultural land; or
- (5) Change of zoning to other than an agricultural zone.

(D) Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the municipality an amount equal to:

- (1) The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
- (2) Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

(E) In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in divisions (B) or (C) above, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(1976 Code, § 8-315) (Ord. 730, passed 9-1-1983)

Statutory reference:

Related provisions, see Neb. RS 19-2428 through 19-2431

§ 151.068 DRIVEWAY APPROACHES.

(A) The Street Commissioner may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If, within 30 days of mailing such notice, the property owner fails or neglects to cause such repairs or replacements to be made, the Street Commissioner may cause such work to be done and assess the cost upon the property served by such approach.

(1976 Code, § 8-316) (Ord. 761, passed 9-6-1984)

Statutory reference:

Related provisions, see Neb. RS 18-1748

§ 151.069 VACATING PUBLIC WAYS; PROCEDURE.

(A) (1) ***SPECIAL DAMAGES*** shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property, and which result from the governing body vacating such street, avenue, alley, lane or similar public ways. ***SPECIAL DAMAGES*** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the city or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the city or public at large.

(2) The Chairperson shall appoint three, five or seven disinterested residents of the municipality to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the governing body vacating such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.

(3) In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned commission shall use the following rule: the abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane or similar public way. However, if no difference in value exists the abutting property owner is entitled to no compensation.

(1976 Code, § 8-317)

(B) Whenever the governing body decides that it would be in the best interests of the municipality to vacate a street, avenue, alley, lane or similar public way, the governing body shall comply with the following procedure.

(1) *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the municipality. The content of the notice will advise the abutting property owners that the governing body will consider vacating such street, avenue, alley, lane or similar public way at its next regular meeting or if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

(2) *Consent/waiver.*

(a) The governing body may have all the abutting property owners sign a form stating that they consent to the action being taken by the governing body and waive their right of access. The signing of such form has no effect on claims for special damages, as defined herein, by the abutting property owners, but does create the presumption that the governing body's action was proper.

(b) However, if all the abutting property owners do not sign the consent/waiver form, the governing body may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Neb. RS 17-558 and 17-559.

(3) *Ordinance.* The governing body shall pass an ordinance that shall state essentially the following:

(a) A declaration that the action is expedient for the public good or in the best interests of the municipality;

(b) A statement that the municipality shall have an easement for maintaining all utilities;
and

(c) A method or procedure for ascertaining special damages to abutting property owners.

(4) *Filing.* The Clerk shall file a copy of the ordinance with the county's Register of Deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane or similar public way and so that such land will be drawn to the attention of the County Assessor.

(1976 Code, § 8-318)

(Ord. 909, passed 10-20-1986; Ord. 913, passed 10-20-1986)

Statutory reference:

Related provisions, see Neb. RS 17-558, 17-559

§ 151.070 OPERATION OF VEHICLES.

(A) The city may, by ordinance or resolution, prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed 180 days in any one calendar year, when operated upon any highways under the jurisdiction of and for the maintenance of

which the city is responsible whenever any such highway by reason of deterioration, rain, snow or other climatic condition will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight thereof reduced. The city shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until such signs are erected and maintained.

(B) The city may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designed by appropriate signs placed on such highways.

(Ord. 1468, passed 2-6-2017)

Statutory reference:

Related provisions, see Neb. RS 60-681

§ 151.999 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, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 8-601)

(B) (1) Whenever a nuisance exists, as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance 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.

(1976 Code, § 8-602)

(Ord. 1449, passed 12-23-2013)

Statutory reference:

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

CHAPTER 152: TRAILER AND MOBILE HOME COURTS

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GENERAL PROVISIONS**§ 152.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING INSPECTOR. The legally designated building authority of the city or his or her authorized representative.

CERTIFICATE OF COMPLIANCE. A written statement by the Health Officer certifying compliance with the requirements of this chapter.

DEPENDENT TRAILER. A trailer which does not have a built-in flush toilet and a bath or shower.

ELECTRICAL INSPECTOR. The legally designated electrical authority of the city or his or her authorized representative.

FIRE INSPECTOR. The legally designated Fire Chief of the city or his or her authorized representative.

HEALTH OFFICER. Any member of the Board of Health.

INDEPENDENT TRAILER. A trailer which has a built-in flush toilet and a bath or shower in serviceable condition.

MOBILE HOME. A structure or building suitable for permanent (more than 30 days) living quarters built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted up, more than eight feet wide and 32 feet in length, and designed or used for residential occupancy with or without a permanent foundation when connected to the required utilities.

MOBILE HOME COURT. A contiguous parcel of land under single ownership containing two acres or more, which has been developed for the placement of mobile homes and approved by special permit of the City Council and is owned by an individual, firm, partnership or corporation that has received a permit from the city.

PERMIT. A written permit issued by the City Council permitting a trailer court or mobile home court to operate under this chapter and regulations promulgated thereunder.

PERSON. Any natural person or any partnership, association or corporation existing in and authorized to do business in the state.

PLUMBING INSPECTOR. The legally designated plumbing authority of the city or his or her authorized representative.

SERVICE BUILDING. A building housing toilet facilities for men and women, and such other faculties as may be required by this chapter.

TRAILER. Any vehicle, without motive power, designated for living quarters and for being drawn by a motor vehicle and is suitable for recreational, vacation or travel purposes and which is not more than eight feet in width, nor more than 32 feet in length, including hitch; provided, the length shall not apply if the gross weight does not exceed 4,500 pounds.

TRAILER COURT. Also referred to as a trailer camp shall mean any plot of ground approved by the city upon which two or more trailers or mobile homes occupied for dwelling or sleeping purposes are located and which has received a special permit for its location from the City Council.

TRAILER SPACE. A plot of ground within a trailer court designated for the accommodation of one trailer or mobile home and reserved for exclusive use of its occupants.
(1976 Code, § 10-501)

§ 152.02 PERMIT REQUIRED.

(A) It shall be unlawful for any person to construct, maintain or operate any trailer court or mobile home court within the limits of the city unless he or she holds a valid permit issued by the City Clerk in the name of such person for the specific trailer court or mobile home court. Applications for permits shall be made to the City Clerk who shall issue a permit upon compliance by the applicant with provisions of this chapter, as evidenced by a certificate of compliance, which certificate shall show compliance with applicable legal requirements. No permit shall be transferable. Every person holding a trailer court or mobile home court permit shall give notice in writing to the City Clerk within 72 hours after having sold, transferred, given away or otherwise disposed of any interest in or control of any trailer court or mobile home court. Such notice shall include the name and address of the person succeeding to the ownership or control of the trailer court or mobile home court.

(B) Presently licensed trailer courts and mobile home courts as of the effective date of this chapter may continue their operation; provided, they meet the court development standards herein provided and further that they fully comply with the mobile home or trailer stand requirements of this chapter.
(1976 Code, § 10-502) Penalty, see § 10.99

§ 152.03 APPLICATION; RENEWALS.

(A) Application for original trailer court or mobile home court permits shall be in writing and verified. The application shall contain the following:

- (1) The name and address of the applicant;
- (2) The interest of the applicant in the trailer court or mobile home court and the location;
- (3) The legal description of the trailer court or mobile home court; and

(4) A complete plan and supplemental specifications (in triplicate) of the trailer court or mobile home court showing compliance with all applicable provisions of the city ordinances.

(B) (1) An application for renewal of a permit shall be required and such renewal issued by the City Clerk before any changes are made in the trailer court or mobile home court which deviate from the plans and specifications as approved in the original permit or the latest renewal thereof.

(2) Applications for renewals of permits shall be in writing and verified by the holder of the permit and shall set out any proposed changes in the trailer court or mobile home court.
(1976 Code, § 10-503)

§ 152.04 PLANS AND SPECIFICATIONS.

The plans and specifications of the trailer court or mobile home court shall show:

- (A) The area, dimensions and location of the tract of land;
- (B) The number, location, dimensions and size of all trailer or mobile home spaces;
- (C) The location and widths of roadways and walkways;
- (D) The location of service buildings and any other proposed structures as required;
- (E) The location and construction details of water and sewer lines and service outlets;

(F) Source of water service, if a public supply; construction and location details, if a private supply. An adequate supply of pure drinking water must be available;

(G) Type of sewage disposal, including construction and location details, if a private system;

(H) Plans and specifications of all buildings and other improvements constructed or to be constructed within the trailer court or mobile home court; and

(I) All plans and detail drawings drawn to scale.
(1976 Code, § 10-504)

§ 152.05 ANNUAL PERMIT FEES; REINSPECTION FEES.

(A) The following fees relative to the issuance to permits, inspections and reinspections for trailer courts and mobile home courts shall be paid in order for such permits, inspections, plan reviews and reinspections to be valid:

<i>Category</i>	<i>Annual Fee</i>	<i>Required Inspection</i>
2-15 spaces	\$150	\$50/space
16-25 spaces	\$250	\$50/space
26 - 50 spaces	\$350	\$50/space
Over 50 spaces	\$450	\$50/space

(B) All permits shall expire at midnight December 31 of each calendar year. The above fees must be paid on or before January 1 of each year for the applicable category in order for a person to receive an annual permit to conduct, operate or maintain a mobile home court or trailer court and receive the required annual inspection of such court. Subsequent inspections shall be classified as those which are required to determine if violations which were discovered in previous inspections have been corrected. Subsequent inspection fees shall be charged for spaces not in compliance 30 days after receipt of annual inspection report. Failure to bring all spaces into compliance by June 1 may result in revoking the annual permit. A permit shall be valid continuously so long as the annual permit fees are paid and so long as the permit is not revoked.

(1976 Code, § 10-505) (Ord. 1262, passed 1-11-1999; Ord. 1294, passed 8-20-2001)

§ 152.06 INSPECTIONS REQUIRED.

The Health Officer, upon displaying his or her identification, is hereby authorized and directed to make inspections to determine the condition of trailer courts or mobile home courts in order to perform his or her duty of safeguarding the health and safety of occupants of trailer courts or mobile home courts and of the general public. The Health Officer, Plumbing Inspector, Building Inspector, Fire Inspector, Electrical Inspector or other authorized inspecting personnel shall have the power to enter at reasonable times upon any private or public property to inspect and investigate conditions affected by this chapter.

(1976 Code, § 10-506)

§ 152.07 INSPECTION OF RECORDS.

The Health Officer shall have the power to inspect the register containing a record of all trailers and mobile homes and occupants using the trailer court or mobile home court.

(1976 Code, § 10-507)

§ 152.08 DUTY OF OWNERS AND OCCUPANTS.

(A) It shall be the duty of the owners or occupants of trailer courts and mobile home courts and trailers or mobile homes contained therein, or of the person in charge thereof, to give the Health Officer or other authorized inspecting personnel free access to such premises at reasonable times for the purpose of inspection. The inspecting personnel, before the commencement of any inspection, shall offer to the owner or person in charge of the trailer court or mobile home court the opportunity to accompany such inspecting personnel on the inspection of the premises. The owner shall have a person in charge of the trailer court or mobile home court and should the person in charge be unavailable to accompany the inspecting personnel at the time of the inspection, this shall in no way delay such inspection.

(1976 Code, § 10-508)

(B) Every occupant of a trailer court or mobile home shall give the owner thereof or his agent or employee access to any part of such trailer court or mobile home court at reasonable times to make repairs or alterations necessary to effect compliance with this chapter.

(1976 Code, § 10-509)

§ 152.09 NOTICES OF VIOLATIONS.

(A) Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, he or she shall give notice of such alleged violation to the person to whom the permit was issued, as hereinafter provided.

(B) Such notice shall:

(1) Be in writing;

(2) Include a statement of the reasons for its issuance;

(3) Specify a reasonable time (but not less than 30 days) for the performance of any act it requires;

(4) Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this chapter; and

(5) Be served upon the owner or his or her agent; provided that, such notice shall have been properly served when a copy thereof has been sent by registered mail to the last known address of the owner or agent, or when the owner or agent has been served with the notice by any other method authorized by the laws of the state.

(C) At the end of such period, the Health Officer shall inspect such trailer court or mobile home court and, if the alleged violations have not been corrected, the City Clerk shall revoke the permit and

give notice in writing of such revocation to the person to whom the permit is issued. Upon receipt of notice of revocation, such person shall cease operations of such trailer court or mobile home court. (1976 Code, § 10-510)

§ 152.10 EMERGENCIES.

Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health, he or she may, without notice or hearing, issue an order reciting the existence of such an emergency and take action as he or she may deem necessary to meet the emergency including requiring the revocation of the permit by the City Clerk. Notwithstanding any other provisions of this chapter, such order shall be effective immediately, but upon petition to the Mayor and City Council shall be afforded a hearing as soon as possible. (1976 Code, § 10-511)

§ 152.11 MANAGEMENT; REGISTRATION.

(A) Trailer court or mobile home court owners or operators shall maintain a register which shall be available to any authorized person inspecting the court, and shall be preserved for a period of not less than one year. Such register shall indicate:

- (1) The name and addresses of all trailer occupants and mobile home occupants stopping in the court;
 - (2) The make, model and license number of the motor vehicle and trailer;
 - (3) The state, territory or county issuing the trailer license;
 - (4) The dates of arrival and departure of each trailer; and
 - (5) Whether or not each trailer is a dependent or independent trailer.
- (1976 Code, § 10-538)

(B) The person to whom a permit for a trailer court or mobile home court is issued shall provide adequate personnel to maintain the court, its facilities and equipment in good repair and in a clean and sanitary condition at all times. (1976 Code, § 10-539)

(C) (1) *Responsibilities of the court management.*

(a) The person, firm or corporation to whom a license is issued to operate the mobile home court or trailer court shall operate said court in strict compliance with the provisions of this chapter and

of the special permit provisions of the City Council and shall provide adequate supervision to maintain the court, its related facilities, roadways, walkways, open spaces, utilities and equipment in good repair and in a clean and sanitary condition.

(b) Said licensee shall be responsible to see that all plumbing, heating and electrical connections, alterations and additions comply with the requirements of this chapter. No structural additions of any kind shall be constructed, or become any part of a mobile home, trailer accessory building or service facility until it meets the approval of the Building Official and is constructed under proper permit issued by the Building Official.

(c) The court licensee shall supervise the placement of each mobile home unit or trailer unit upon its stand and shall be responsible for ensuring its compliance with an approved foundation system and notification to the Building Official when new units are placed.

(2) *Responsibilities of court occupants.*

(a) The occupant of any mobile home or trailer shall comply with all applicable requirements of this chapter and shall maintain his or her mobile home space or trailer space, its facilities and equipment in good repair and in a clean and sanitary condition.

(b) The occupants of any mobile home or trailer shall be responsible to see that all plumbing, heating, cooling and electrical connections, alterations and additions comply with the requirements of this chapter. No structural additions of any kind shall be constructed, or become any part of a mobile home, trailer, accessory building or service facility until it meets the approval of the Building Official and is constructed under proper permit issued by the Building Official. The mobile home or trailer occupant may be served with notices of non-compliance together with the court licensee.
(1976 Code, § 10-540)

(D) (1) Whenever the Building Official determines that there has been a violation of this chapter, or has reasonable grounds to believe that there is or has been a violation of any provision of this chapter, he or she shall give notice of such alleged violation to the person, firm or corporation to whom the mobile home court or trailer court license was issued as hereinafter provided.

(2) Such notice shall:

(a) Be in writing;

(b) Specify in detail the alleged violation;

(c) Specify a reasonable time (but generally not less than 30 days) for the performance of any act it requires;

(d) Contain an outline of remedial action, which if taken will effect compliance with the provisions of this chapter; and

(e) Be served upon the licensee; provided that, such notice shall have been properly served when a copy thereof has been sent by registered mail to the last known address of licensee, or when same has been served by any other method authorized by the laws of the state.

(3) At the end of such period specified for compliance, the Building Official shall inspect the mobile home court or trailer court and if the alleged violations have not been corrected, the City Clerk shall remove the license and shall give notice in writing of such revocation to the person, firm or corporation to whom the license is issued. Upon receipt of such notice of revocation, the licensee shall cease operation of such mobile home court or trailer court.

(4) Whenever the Building Official finds an emergency exists which requires immediate action to protect the public health, safety and welfare, he or she may issue an order reciting the existence of such emergency and take action as he or she may deem necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately.
(1976 Code, § 10-541)

§ 152.12 CONFLICT.

(A) In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the city, existing on the effective date of this chapter, the provision which, as applied to trailers, trailer courts, mobile homes or mobile home courts, establishes the higher standard for the promotion and protection of the health and safety of the public shall prevail.

(B) In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the city existing on the effective date of this chapter which established a lower standard for the promotion and protection of the health and safety of the public, the provisions of this chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.
(1976 Code, § 10-542)

UTILITIES AND CONDITIONS

§ 152.25 LOCATION, SPACE AND GENERAL LAYOUT; AREA.

(A) Trailer courts or mobile home courts shall be located on a well-drained site, free from marshes, swamps or other potential breeding places for insects or rodents, and so that its drainage will not endanger any water supply.
(1976 Code, § 10-512)

(B) In addition to trailer or mobile home spaces, trailer courts or mobile home courts shall accommodate access roads, parking for motor vehicles and space for any other facility required by this chapter and any zoning regulation that may be adopted.
(1976 Code, § 10-513)

(C) All trailers and mobile homes shall be located in a trailer court or mobile home court that has received a permit for operation from the city and only so long as said permit is current; provided, trailers and mobile homes may be located in other areas of the municipality where permitted by Ch. 154 of this code of ordinances.
(1976 Code, § 10-544)
Penalty, see § 10.99

§ 152.26 ACCESS ROADS.

Access roads shall be provided to each trailer or mobile home space and shall connect with a street or highway and shall have a minimum unobstructed width of 20 feet and shall permit Fire Department apparatus to approach within 200 feet of any part of any trailer or mobile home. In all trailer courts or mobile home courts constructed after the effective date of this chapter access roads shall also provide for continuous forward movement of using vehicles.
(1976 Code, § 10-514) Penalty, see § 10.99

§ 152.27 POSITIONING OF HOMES AND TRAILERS.

All mobile home units or trailer units shall be positioned on a mobile home space or trailer space in compliance with the requirements of the special permit provisions granted by the City Council or in accordance with the zoning requirements at the time of the establishment of the mobile home court or trailer court as follows: in mobile home courts or trailer courts constructed after the adoption of this code, a distance of at least 25 feet shall be maintained between mobile homes or trailers and mobile homes or trailers and buildings in all horizontal directions unless specifically adjusted by the City Council upon specific request due to special circumstances as provided in the zoning ordinance.
(1976 Code, § 10-515) Penalty, see § 10.99

§ 152.28 UNLAWFUL TO OCCUPY UNLESS ON SPACE.

It shall be unlawful to allow any trailer or mobile home to be occupied in a trailer court or mobile home court unless the trailer or mobile home is situated on a trailer space or mobile home space. If a mobile home, then the mobile home must comply with all the construction standards as set forth in the Standard for Mobile Homes, NFPA No. 501B, as designated in §§ 150.001 and 150.002 of this code of ordinances.
(1976 Code, § 10-516) Penalty, see § 10.99

§ 152.29 PARKING OF MOTOR VEHICLES.

Parking space for motor vehicles shall be provided and the parking area shall be clearly defined. Motor vehicle parking shall be provided on the basis of one stall, nine feet wide by 20 feet long for each trailer space or mobile home space.

(1976 Code, § 10-517) Penalty, see § 10.99

§ 152.30 SERVICE BUILDINGS.

(A) (1) Trailer courts that accommodate dependent trailers shall provide at least the following facilities within a service building:

(a) For one to ten dependent trailer spaces, two flush-type toilets and lavatories and one shower or bath tub for females; one flush-type toilet, one urinal, one lavatory and one shower or bath tub for males; and one slop-water closet consisting of at least one flush-type toilet bowl receptacle for emptying containers of human excreta, with an adequate supply of hot and cold running water for cleaning such containers; this slop-water closet shall be a separate room of a service building with a single direct opening to the outside; and

(b) For more than ten dependent trailers, the following additional fixtures shall be provided; one lavatory and one shower or bath tub for each sex for every additional ten dependent trailers or fraction thereof; one water closet for females for every additional ten dependent trailers or fraction thereof; one water closet for males for every additional 15 dependent trailers or fraction thereof; provided that, urinals may be substituted for not more than one-third of the additional water closets required under this division (A)(1)(b).

(2) Dependent trailer spaces shall be not more than 200 feet from a service building.
(1976 Code, § 10-518)

(B) In addition to other requirements listed previously, the service building shall comply with the following specifications:

(1) Be located 25 feet or more from any trailer; provided, however, that, this requirement shall not apply to construction lawfully in existence at the effective date of this chapter;

(2) Be of permanent construction, lighted with natural lighting by windows or skylights at least 12% of the floor area and artificial lighting;

(3) Be of moisture-resistant material;

(4) Have adequate heating facilities to maintain a temperature of 70°F at a distance of three feet above floor level under ordinary minimum winter conditions and to supply adequate hot water

during time of peak demands. These facilities should be maintained in safe and good working condition; and

(5) Have all rooms well-ventilated and all exterior openings effectively screened with no larger than 16 mesh screen.
(1976 Code, § 10-519)

(C) (1) Laundry facilities shall be provided in the ratio of at least one clothes washing machine and one laundry tray to every 30 dependent trailer spaces, and shall be in a separate room of a service building or in a separate building.

(2) Clothes drying facilities shall be available without charge for all spaces. Facilities may be provided on individual spaces or centrally located for community use; and they may be outdoor clothes drying racks or mechanical drying facilities in a service building.
(1976 Code, § 10-520)
Penalty, see § 10.99

§ 152.31 WATER SUPPLY; PLUMBING.

(A) (1) An accessible, adequate, safe and potable water supply shall be provided in each trailer court or mobile home court, capable of furnishing a minimum of 150 gallons per day per trailer space. An independent water supply to serve a trailer court shall be developed only after express approval has been granted by the Health Officer. Where a public supply of water of such quality is available, connection shall be made thereto and that supply be used exclusively.

(2) The water system of a trailer court or mobile home court shall be connected and distributed by pipes to all buildings and to all trailer spaces or mobile home spaces.

(3) Water piping shall be constructed and maintained in accordance with city ordinances. The water system shall not be connected with non-potable water or water supplies which have not been approved by the Health Officer, and shall be protected against backflow or backsiphonage.

(4) Individual water service connections shall be constructed so that they will not be damaged by parking trailers or mobile homes. The trailer or mobile home court water system shall be adequate to provide at least 20 pounds per square inch of pressure at all trailer or mobile home connections.
(1976 Code, § 10-521)

(B) (1) Where an independent or private water system is used to serve a trailer or mobile home court with water obtained from wells, the well shall have been approved by the Health Officer, and shall have been drilled or driven. Springs or other sources of supply shall not be used unless approved by the Health Officer.

(2) Every well which serves a trailer or mobile home court shall be located and constructed in such a manner that neither underground nor surface contamination will reach the water supply from any source. A minimum distance of 150 feet shall be maintained between the water supply and any cesspool. A minimum distance of 100 feet shall be maintained between the water supply and any other possible source of contamination; except that, sewers or pipes through which sewage may back up shall be located at least 50 feet from any well or water suction pipeline. Where such sewers or pipes are specifically constructed to provide adequate safeguards and when specifically authorized by the Health Officer, such sewers or pipes through which sewage may back up may be closer than 50 feet, but not less than 30 feet from a well.

(3) No well-casings, pumps, pumping machinery or suction pipes which serve a trailer or mobile home court shall be located in any pit, room or space extending below ground level, nor in any room or space above ground which is walled in or otherwise enclosed, unless such rooms, whether above or below ground, have free drainage by gravity to the surface of the ground, and the floor of rooms above ground shall be at least six inches above grade; such floors shall be water-tight, and sloped from the pump pedestal to the drain. The pedestal shall be not less than 12 inches above the floor.
(1976 Code, § 10-522)

(C) Water reservoirs which serve a trailer or mobile home court shall be water-tight, and constructed of impervious material, all overflows and vents of such reservoirs shall be effectively screened. Open reservoirs are prohibited. Manholes of such reservoirs shall be constructed with over-lapping covers, so as to prevent contamination. Overflow pipes from a reservoir shall not connect to any pipe in which sewage or polluted water may back up. Underground stop and waste cocks shall not be installed on any connection.
(1976 Code, § 10-523)

(D) Plumbing in trailer or mobile home courts shall comply with city plumbing ordinances and regulations.
(1976 Code, § 10-524)
Penalty, see § 10.99

§ 152.32 SEWER SUPPLY.

(A) *Connections.* Each independent trailer space or mobile home space shall be provided with at least a three-inch sewer connection. The sewer connection shall be provided with suitable fittings as adaptors so that a water-tight connection can be made between a trailer or mobile home drain and the sewer connection. Such individual trailer or mobile home connections shall be constructed so that they can be closed when not linked to a trailer or mobile home and shall be capped so as to prevent escape odors.
(1976 Code, § 10-525)

(B) *Sewer lines.*

(1) Sewer lines shall be constructed in accordance with plans approved by the Health Officer and in accordance with the recommendations of such Health Officer.

(2) All sewer lines shall be adequately vented, and shall be laid with sufficient earth to prevent breakage from traffic.
(1976 Code, § 10-526)

(C) *Sewage disposal.* It shall be unlawful to permit any waste water from sinks, baths, showers or other plumbing fixtures in any trailer or mobile home court to be deposited upon the surface of the ground and all such fixtures, when in use, must be connected to the city sewer system.
(1976 Code, § 10-527)
Penalty, see § 10.99

§ 152.33 REFUSE; DISPOSAL, STORAGE AND REMOVAL.

(A) Storage, collection and disposal of refuse in a trailer or mobile home court shall be managed so as not to create health hazards, rodent harborage, insect-breeding areas, accident or fire hazards or air pollution.
(1976 Code, § 10-528)

(B) (1) Refuse shall be stored in fly-tight, water-tight, rodent-proof containers, which shall be located not more than 150 feet from any trailer or mobile home.

(2) Containers shall be provided in sufficient number and capacity to store properly all refuse, and otherwise in conformity with Ch. 51 of this code of ordinances.
(1976 Code, § 10-529)

(C) (1) Refuse shall be removed from the trailer court or mobile home court at least once weekly. Where suitable refuse removal service is not available from municipal or private agencies, the trailer court operator or mobile home operator shall provide this service. Refuse shall be removed and transported as required by city ordinance.

(2) Where municipal or private disposal service is not available, the trailer court or mobile home operator shall dispose of the refuse in conformity with the city ordinances.

(3) Refuse and garbage incineration on the trailer court premises is prohibited, unless specifically approved by the Health Officer. Such approval shall be based on a review of the plans and specifications for such incinerators and approval of the site as well as the type of material placed in the incinerator.
(1976 Code, § 10-530)
Penalty, see § 10.99

§ 152.34 INSECT AND RODENT CONTROL.

(A) Insect and rodent control measures to safeguard public health as required by the Health Officer shall be applied in the trailer court or mobile home court.

(B) Use of effective larvicidal solutions may be required by the Health Officer for fly or mosquito breeding areas which cannot be controlled by other, more permanent measures.

(C) The Health Officer may require a trailer court operator or mobile home operator to take measures to control insects and obnoxious weeds.

(D) Debris which may harbor rodents shall not accumulate in a trailer court or mobile home court. When rats or other objectional rodents are detected in a trailer court or mobile home court, the court operator shall take definite action, as described by the Health Officer, to exterminate them. (1976 Code, § 10-531) Penalty, see § 10.99

§ 152.35 ELECTRICAL LIGHTING.

(A) Standard 115-volt electrical service shall be provided each trailer or mobile home, additional service may be furnished.

(B) High voltage distribution power lines in a trailer court or mobile home court shall be supported on poles or buried.

(C) Low voltage service lines (115-230 volts) may be supported on poles or buried, or may be laid on surface in sheathed cable, approved by the city's Electrical Inspector.

(D) Illumination of roadways and walkways shall be equivalent to that required for residential areas. Electrical wiring referred to in this section shall comply with the Electrical Code of the city. (1976 Code, § 10-532) Penalty, see § 10.99

§ 152.36 FUEL CONTAINERS AND SUPPLY.

(A) Piping from fuel storage tanks or cylinders to trailers or mobile homes shall be copper or other acceptable metallic tubing and shall be permanently installed and securely fastened in place. Fuel storage tanks or cylinders shall be set upon a firm foundation or otherwise firmly secured in place, readily available for inspection and located so as to require filling and draining on the outside and shall be not less than five feet from any trailer exit. The possible effect on the outlet piping of settling of containers shall be guarded against by a flexible connection or special fitting.

(B) No empty fuel containers shall be placed under trailers or mobile homes, but shall be left in place if the trailer is so designed for more than one container. If not so designed, the empty containers shall be stored in an area which the trailer court operator or mobile home operator shall designate for the storage of such containers.

(C) The National Fire Protection Association Pamphlet No. 501A for Trailer Courts, as it presently exists or may hereafter be amended, is hereby incorporated by reference and shall apply to all trailer courts and mobile home courts except that no filling plant for liquefied petroleum gases shall be constructed, maintained or operated within a trailer court or mobile home court.

(1976 Code, § 10-533) Penalty, see § 10.99

§ 152.37 FIRE PROTECTION.

(A) Trailer courts or mobile home courts shall be subject to the Fire Prevention Code of the city.

(B) Trailer courts or mobile home courts shall be kept free from litter, rubbish, dry brush and other flammable materials.

(C) Portable fire extinguishers of a type approved by the Chief of the Fire Department shall be kept in service buildings and at other locations designated by the Chief, and shall be maintained in good operating condition. Appropriate measures shall be taken to prevent freezing of fire equipment.

(D) Where a public water system with a water main of six inches or larger is available to the trailer court or mobile home court, standard fire hydrants shall be located within 1,000 feet of each trailer or mobile home or service building.

(E) Where the water supply system does not provide at least a six-inch water main, a two-inch frost-protected water riser within 300 feet of each trailer or mobile home or service building shall be provided in trailer courts or mobile home courts.

(F) The person to whom the trailer court permit or mobile home permit is issued shall be responsible for informing all tenants about means for summoning fire apparatus, the Police Department and trailer court employees, and he or she shall conspicuously post a list of safety rules and regulations, the form of which is found in Appendix A of the National Fire Protection Association Pamphlet No. 501A, as it presently exists or may hereafter be amended.

(1976 Code, § 10-534) Penalty, see § 10.99

§ 152.38 STANDS AND SKIRTING.

(A) The area of the mobile home or trailer stand shall be improved to provide an adequate and approved foundation for the placement of the mobile home or trailer, thereby positioning the super

structure against uplift, sliding, rotation or overbearing. The mobile home or trailer stand shall be on basically non-combustible materials and shall not shift, or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super structure. A mobile home or trailer stand may be provided by means of a solid concrete foot or block sixteen inches by 16 inches by four inches minimum placed on solid uniform soil upon which are placed and centered standard concrete blocks on top of another with cells placed vertically. A solid four-inch concrete cap covering the concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. If blocking shall be provided upon which shall be placed a wooden spacer and wooden shims upon the full length of the mobile home or trailer unit, they shall be placed not more than ten feet apart and not more than five feet from the ends of the unit.

(B) The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind blow requirements and shall not provide a harborage for junk or rodents nor create a fire hazard. Such skirting shall be provided with removable or hinged access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection with the utility risers if they are located within the skirted area.

(C) Skirting for trailers, travel trailers or recreational trailers on authorized overnight trailer spaces shall not be required; provided that, the trailer, travel trailer or recreational trailer is not parked on said overnight space for more than 30 days. All mobile homes and trailers shall be secured to the ground by being affixed to a minimum of four anchors as to prevent the trailer or mobile home from overturning or the separation of the chassis from the frame due to high winds within 30 days of location in the mobile home or trailer space.

(1976 Code, § 10-535) Penalty, see § 10.99

§ 152.39 ALTERATIONS AND ADDITIONS.

No additions or appurtenances shall be built onto or become a part of any trailer or mobile home unless they are approved by the Health Officer. All plumbing and electrical alterations shall be in accordance with city ordinance.

(1976 Code, § 10-536) Penalty, see § 10.99

§ 152.40 ANIMALS AND PETS.

No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large, or to commit any nuisance within the limits of any trailer court or mobile home court.

(1976 Code, § 10-537) Penalty, see § 10.99

CHAPTER 153: FLOODPLAIN MANAGEMENT

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GENERAL PROVISIONS**§ 153.01 STATUTORY AUTHORIZATION.**

(A) The legislature of the state has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare.

(B) The legislature, in Neb. RS 31-1001 to 31-1022, has further assigned the responsibility to adopt, administer and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area.

(C) Therefore, the Mayor and City Council ordains as follows.
(1976 Code, § 14-101) (Ord. 1421, passed 4-18-2011)

§ 153.02 FINDINGS OF FACT.

(A) *Flood losses resulting from periodic inundation.* The flood hazard areas of the city are subject to inundation which results 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.

(B) *General causes of the flood losses.* These flood losses are caused by:

(1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities; and

(2) 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) *Methods used to analyze flood hazards.* This chapter uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:

(1) Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood is selected for this chapter. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this chapter. It is in the general order of a flood which could be expected to have a 1% chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated 5-3-2011, as amended;

(2) Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood;

(3) Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point;

(4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile; and

(5) Delineation of floodway fringe (i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood).
(1976 Code, § 14-101) (Ord. 1421, passed 4-18-2011)

§ 153.03 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 § 153.02(B) of this chapter by applying the provisions of this chapter to:

(A) 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;

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

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

(D) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.
(1976 Code, § 14-101) (Ord. 1421, passed 4-18-2011)

§ 153.04 LANDS TO WHICH CHAPTER APPLIES.

(A) This chapter shall apply to all lands within the jurisdiction of the city identified on the Flood Insurance Rate Maps (FIRM) dated 5-3-2011 as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in § 153.26 of this chapter.

(B) In all areas covered by this chapter, no development shall be permitted, except upon the issuance of a floodplain permit to develop, granted by the city or its duly designated representative under such safeguards and restrictions as the city or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in §§ 153.40, 153.41 and 153.42 of this chapter.
(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.05 ENFORCEMENT OFFICER.

The Zoning Administrator of the community is hereby designated as the community's duly designated Enforcement Officer under this chapter.

(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.06 INTERPRETATION OF DISTRICT BOUNDARIES.

(A) The boundaries of the Floodway and Flood Fringe Overlay Districts shall be determined by scaling distances on the official Zoning Map or on the Flood Insurance Rate Map or Floodway Map.

(B) Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in questions shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board of Adjustment and to submit his or her own technical evidence, if he or she so desires.

(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.07 COMPLIANCE.

Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.08 ABROGATION AND GREATER RESTRICTIONS.

(A) It is not intended by this chapter to repeal, abrogate or impair any existent easements, covenants or deed restrictions.

(B) However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail.

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

(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.09 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.
(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.10 WARNING AND DISCLAIMER OF LIABILITY.

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. 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. This chapter does not imply that areas outside Floodway and Flood Fringe District boundaries or land uses permitted within such districts will be free from flooding or flood damage. 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.
(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.11 SEVERABILITY.

If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.12 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 Adjustment.
(1976 Code, § 14-102) (Ord. 1421, passed 4-18-2011)

§ 153.13 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEAL. A request for a review of the Zoning Administrator's interpretation of any provision of this chapter or a request for a variance.

APPURTENANT STRUCTURE. A structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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 level) 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 CONSTRUCTION. (For the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before 1-1-1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

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 a 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 TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISIONS. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The usual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE. The area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a 1% chance of flood occurrence in any one year).

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

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

FLOODWAY or **REGULATORY FLOODWAY.** The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface more than one foot.

FREEBOARD. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. **FREEBOARD** tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings and the hydrological effect of urbanization of the watershed.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of structure.

HISTORIC STRUCTURE. Any structure that is:

(1) 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;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary 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;

(3) 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

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

VARIANCES. A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. A failure of a structure or other development to be fully compliant with the community's floodplain management regulations.
(1976 Code, § 14-112) (Ord. 1421, passed 4-18-2011)

ADMINISTRATION AND ENFORCEMENT

§ 153.25 DEVELOPMENT PERMIT.

(A) *Permit 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 § 153.13 of this chapter.

(B) *Administration.*

(1) The Zoning Administrator is hereby appointed to administer and implement the provisions of this chapter.

(2) Duties of the Zoning Administrator shall include, but not be limited to:

(a) Review of all developmental permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this chapter have been satisfied;

(b) Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required;

(c) Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;

(d) Notify adjacent communities and the state's Department of Natural Resources prior to any alteration or relocations of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency;

(e) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;

(f) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas;

(g) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood-proofed; and

(h) When flood-proofing is utilized for a particular structure the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

(C) *Application for permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purposes. Every such application shall:

(1) Identify and described the development to be covered by the floodplain development permit;

(2) Described 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 or her authorized agent who may be required to submit evidence to indicate such authority; and

(6) Give such other information as reasonably may be required by the Zoning Administrator. (1976 Code, § 14-103) (Ord. 1421, passed 4-18-2011)

§ 153.26 ZONING DISTRICTS ESTABLISHED.

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: a Floodway Overlay District (FW) and a Flood Fringe Overlay District (FF) as identified in the Flood insurance Study, and accompanying map(s). Within these districts, all uses not meeting the standards of this chapter and those standards of the underlying zoning district shall be prohibited.

(1976 Code, § 14-104) (Ord. 1421, passed 4-18-2011)

§ 153.27 VARIANCES.*(A) Procedures.*

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

(2) The Board of 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.

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

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

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger of life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

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

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

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

1. 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

2. 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.

(B) *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, divisions (B)(2) through (B)(6) below 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 not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.

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

(5) 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 ordinances.

(6) This application shall be given a written notice over the signature of a community official that:

(a) The issuance of a variance to construct a structure below the 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

(b) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.

(1976 Code, § 14-108) (Ord. 1421, passed 4-18-2011)

§ 153.28 NON-CONFORMING USES.

(A) A structure or the use of a structure or premises which was lawful before the passage or amendment of the chapter, 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 24 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 non-conforming uses where utility services have been discontinued for a period of 24 months.

(2) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as non-conforming uses.

(B) If any non-conforming 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 of Historic Places; provided that, the alteration shall not preclude its continued designation.

(1976 Code, § 14-109) (Ord. 1421, passed 4-18-2011)

§ 153.29 AMENDMENTS.

The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973; provided, however, that, no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. At least ten days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. 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 State Floodplain Management Act.

(1976 Code, § 14-110) (Ord. 1421, passed 4-18-2011)

FLOOD HAZARD REDUCTION**§ 153.40 FLOODPLAIN DEVELOPMENT.**

(A) No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A Zones (including AE, AO and AH Zones) unless the conditions of this section are satisfied.

(B) All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of § 153.41 of this chapter. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.

(C) Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas 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 base flood more than one foot at any location as shown on the Flood Insurance Study.

(D) New construction, subdivision proposal's substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

(1) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and on-site waste disposal systems be located so as to avoid impairment or contamination;

(3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and 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 the components during conditions of flooding; and

(4) All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation.

(E) (1) The storage or process of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.

(2) 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.

(F) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage;

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

(4) Proposals for development (including proposals for manufactured homes parks and subdivisions) of five acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

(1976 Code, § 14-105) (Ord. 1421, passed 4-18-2011)

§ 153.41 FLOOD FRINGE DISTRICT (INCLUDING AO AND AH ZONES).

(A) *Permitted uses.* Any use permitted in § 153.42 of this chapter shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of § 153.40 of this chapter are met.

(B) *Standards for the Flood Fringe Overlay District.*

(1) Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.

(2) Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be flood-proofed so that below that 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 registered professional engineer or architect shall certify that the standards of this division (B)(2) are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in § 153.25(B)(2)(f) of this chapter.

(3) 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. 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 to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. 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.

(4) Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation; provided, the structure meets the requirements as set forth in division (B)(3) above; and, provided that, no utilities are installed in the structure, except elevated or flood-proofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

(5) Within AH Zones, adequate drainage paths around structures on slopes shall be required in order to guide flood waters around and away from proposed structures.

(6) (a) All manufactured homes shall be anchored to resist floatation, collapse or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

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

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; and

4. Any additions to the manufactured home be similarly anchored.

(b) Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM 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 foundations

such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (B)(6)(a) above.

(c) Require 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 FIRM that are not subject to the provisions of division (B)(6)(b) above be elevated so that either:

1. The lowest floor of the manufactured home is at or above 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 (B)(6)(a) above.

(7) (a) Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use; or

3. Meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this chapter.

(b) 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.

(8) Located within the areas of special flood hazard established in § 153.06 of this chapter are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply with AO Zones.

(a) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(b) All new construction and substantial improvements of non-residential structures shall:

1. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level 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. Such certification shall be provided to the official as set forth in § 153.25(B)(2)(g) of this chapter.

(c) Adequate drainage paths around structures on slopes shall be required in order to guide flood waters around and away from proposed structures.
(1976 Code, § 14-106) (Ord. 1421, passed 4-18-2011)

§ 153.42 FLOODWAY OVERLAY DISTRICT.

(A) *Permitted uses.* Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:

- (1) Agricultural uses such as general farming, pasture, nurseries, forestry;
- (2) Residential uses such as lawns, gardens, parking and play areas;
- (3) Non-residential areas such as loading areas, parking and airport landing strips; and

(4) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

(B) *Standards for the Floodway Overlay District.* New structures for human habitation are prohibited. All encroachment, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of §§ 153.40 and 153.41 of this chapter. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or § 153.40(F)(4) of this chapter, in meeting the standards of this section.
(1976 Code, § 14-107) (Ord. 1421, passed 4-18-2011)

§ 153.99 PENALTY.

(A) 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. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more that \$200 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 is as necessary to prevent or remedy any violation.
(1976 Code, § 14-110) (Ord. 1421, passed 4-18-2011)

CHAPTER 154: PLANNING AND ZONING

Section

- 154.01 Comprehensive Development Plan
- 154.02 Subdivision and zoning regulations
- 154.03 Sign regulations
- 154.04 Conflicts

- 154.99 Penalty

§ 154.01 COMPREHENSIVE DEVELOPMENT PLAN.

The city's Comprehensive Development Plan provisions, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.
(1976 Code, § 11-101) (Ord. 1466, passed 12-5-2016)

§ 154.02 SUBDIVISION AND ZONING REGULATIONS.

The city's subdivision and zoning regulations, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.
(1976 Code, § 11-201 and Ch. 12) (Ord. 1467, passed 12-5-2016)

§ 154.03 SIGN REGULATIONS.

The city's sign regulations, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.
(1976 Code, Ch. 13) (Ord. 1477, passed 1-22-2018)

§ 154.04 CONFLICTS.

Where the provisions adopted by this chapter conflict with one another or with the provisions of Ch. 150 of this code of ordinances, the most restrictive or stringent provisions shall govern.
(1976 Code, § 11-301)

§ 154.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.
(1976 Code, § 11-401) (Ord. 1427, passed 5-7-2012; Ord. 1449, passed 12-23-2013)