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## **CHAPTER 9 – BUILDING REGULATIONS**

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

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

When necessary, the City Council may appoint a building inspector, who shall be the city official having the duty of enforcing all building and housing regulations as herein prescribed. The code enforcement officer designated in Chapter 1, Section 1-512 or another person such as the village engineer or someone experienced in building construction practices may be appointed as building inspector. The duties of the building inspector shall be as follows:

A. He or she shall have the authority to carry out the duties as stated in the Dangerous Buildings Regulations in Chapter 3, Article 6, Section 3-602 herein.

B. He or she shall inspect all buildings repaired, altered, built, or moved in the city as often as necessary to insure compliance with all city ordinances and is authorized, upon properly identifying himself, to enter, inspect, survey, and investigate between the hours of 8:00 a.m. and 5:00 p.m. or at any time if an emergency exists or if requested by the owner or occupant thereof. He or she shall also investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists and that a building or structure is unfit or unsafe for human habitation.

C. He or she shall have the power and authority to order, at the direction of the Planning Commission, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the commission, issue permission to continue any construction, alteration, or relocation when the commission is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by any law enforcement officer or the building inspector or his or her agent.

D. He or she shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner; and he or she shall not act as an agent for any said dealer or as an agent for the sale, lease, or rental of any real estate.

E. He or she shall keep records of all complaints received, inspection reports, orders, and complaints issued, which shall be available for public inspection.

F. He or she shall report to the City Council as often as may be deemed necessary and shall have such other duties and issue such permits as the council may direct.

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

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

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

A. The building inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the municipal code:

1. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
2. Frame inspection shall be made after the roof, framing, fire-blocking, and backing are in place and all pipes, chimneys, and vents are complete; and
3. Final inspection shall be made after the building is completed and ready for occupancy.

B. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

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

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

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

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the city to have all excavations, open basements, building materials, and debris protected by suitable guards or barricades by day and by warning lights at night during the time that such work is in progress. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the building inspector or any law enforcement authority which shall have police jurisdiction within the zoning and building jurisdiction of the city shall stop all work until guards are erected and maintained as required.

## **Article 2 – Building and Zoning Permits**

### **SECTION 9-201: APPLICATION; STRUCTURE DEFINED; EXAMINATION AND APPROVAL**

A. Any person desiring to commence or proceed to erect, construct, repair, enlarge, remodel or rehabilitate any building, dwelling or other structure, as defined herein, such as to result in a structural alteration, or to demolish or relocate such building or

dwelling or cause the same to be done shall first file with the city clerk and/or the city's designated agent an application for a building/zoning permit and shall at all times fully comply with all the requirements of the zoning and subdivision regulations of this city and with all other applicable federal, state and local laws, rules and regulations. The application shall be in writing on a form to be furnished by the city clerk. 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. A permit fee as set by resolution of the City Council and kept on file at the office of the city clerk shall be required before issuance of the permit.

B. As used herein, "structure" shall mean anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which requires location on the ground or is attached to something having a location on the ground, including swimming or wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

C. The city's appointed agent is hereby granted authority to examine and pass upon pending applications for building/zoning permits, determining whether the same should be issued during the length of their contract.

D. When any application, plans and specifications so filed with the city clerk and examined by the Planning Commission and/or the city's appointed agent are found to be in conformity with the requirements of this chapter and all other federal, state and city ordinances, laws, rules and regulations applicable thereto and upon payment of the fee required herein, the commission and/or the city's agent shall authorize and direct the city clerk to issue a permit to the said applicant.

(Neb. Rev. Stat. §18-1743) (Am. Ord. No. 533, 5/19/03)

#### **SECTION 9-202: VARIANCE NOT PERMITTED**

It shall be unlawful for any person to whom a building/zoning permit is issued, as provided in this article, to vary in any manner from the plans and specifications stamped and approved by the city's authorized agent so that such construction or repair does not conform to the ordinances of the city.

#### **SECTION 9-203: LIMITATION**

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

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

Whenever a building permit is issued for the erection, alteration, or repair of any building within the city's jurisdiction and the improvement is \$2,500.00 or more, a duplicate of such permit shall be filed with the county assessor by the city clerk. (Neb. Rev. Stat. §§18-1743)

#### **SECTION 9-205: BUILDING WITHOUT PERMIT; NUISANCE**

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

## **SECTION 9-206: DESTRUCTION OF BUILDING; BOND REQUIREMENT**

It shall be the duty of the owner, lessee or tenant intending the destruction of any building or improvement to post a \$1,000.00 cash bond with the city clerk prior to such destruction. This bond will be refunded upon payment of all damages to city property occasioned by such destruction and any cleanup work resulting from such destruction. In the event that a nuisance remains on the building permit site for more than six months after the issuance of the building permit, then the bond shall be forfeited and shall be applied to offset the cleanup by the city.

## **Article 3 – Uniform Codes Adopted**

### **SECTION 9-301: UNIFORM CODES; ADOPTED BY REFERENCE**

A. The official operative codes governing all building and construction activities within the City of Fort Calhoun, Nebraska, and its extraterritorial zoning and subdivision jurisdiction and authority, shall be the then currently effective editions of:

1. International Building Code (IBC),
2. International Property Maintenance Code (IPMC),
3. International Residential Code (IRC),
4. National Electrical Code (NEC),
5. International Plumbing Code (IPC),
6. International Mechanical Code (IMC),
7. International Energy Conservation Code (IECC),
8. International Fuel Gas Code (IFGC),
9. International Swimming Pool & Spa Code (ISPSC), and
10. International Existing Building Code (IEBC),

all as published by the International Code Council as adopted, including amendments, and enforced by the designated agent of Fort Calhoun, NE.

B. The following additional codes, current editions, are hereby designated as official and are incorporated by reference when the same are applicable to the city:

1. City of Omaha Standard Specifications for Public Works Construction;
2. City of Fort Calhoun Storm Water Management Regulations; and
3. City of Omaha Soil Erosion and Sediment Control Manual.

C. Whenever a new edition of the above codes shall be published, the same shall, without further ordinance amendment required, replace previous editions and shall become the official building codes as adopted by the city. One copy of each of said then currently effective operative codes shall be filed in the office of the city clerk and shall be available for public inspection at all reasonable times.

(Am. Ord. Nos. 546, 6/20/05; 712, 7/18/16; 737, 12/17/18)

## **Article 4 – Building Moving**

(Neb. Rev. Stat. §60-6,299)

### **SECTION 9-401: DEFINITIONS**

"Building" shall mean a structure designated, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, industrial, institutional, assembly, educational or recreational purposes. No moving permit shall be required to move a building that is 10 feet wide or less, 20 feet long or

less and, when in a position to move, 15 feet high or less.

## **SECTION 9-402: PERMIT REQUIRED; APPLICATION**

No person shall move any building over, along or across any highway, street or alley in the city without first obtaining a permit from the city clerk. Any person seeking issuance of a permit hereunder shall file an application for such permit with the city clerk. Upon approval of the Planning Commission, the city clerk shall then issue the said permit.

A. The application shall be made in writing upon a form provided by the city clerk and shall be filed in his or her office. 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 the proposed building shall 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 Planning Commission shall find necessary to make a fair determination of whether a permit should be issued.

B. The application shall be accompanied by the following:

1. Applicant shall provide sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charge(s) against the same are paid in full.
2. Applicant, if other than the owner, shall file with the application a written statement of bill of sale signed by the owner or other sufficient evidence that he or she is entitled to move the building.
3. Applicant shall file with the application a certificate of insurance providing coverage for both personal injury and property damage which might occur during the moving of said building. The minimum amounts of coverage allowable shall be \$10,000.00 property damage coverage and \$10,000.00 personal injury coverage. The Planning Commission may require coverage in greater amounts if deemed necessary.

C. The application shall be accompanied by a permit fee and cleanup deposit in the amounts set by resolution of the City Council and kept on file at the office of the city clerk, which shall be paid over by the city clerk to the city treasurer, who shall credit it to the general fund.

## **SECTION 9-403: UTILITIES**

A. Whenever it shall be necessary for any permittee in moving a building to inter-

fare with any power or telephone poles or wires, the public service company or companies owning, using or operating such poles or wires shall, upon such notice as is provided in their respective franchises, or if no provisions for notice are made therein, then upon 48 hours' notice, be present and assist or, if necessary, remove such poles and wires. The expense of said removal, as estimated, shall be paid in advance by the applicant unless it is otherwise provided in said companies' franchises.

B. Whenever the moving of any building necessitates interference with any water main or sewer main belonging to the city, notice in writing of the time and route of such building moving operations shall be given to the building inspector of the city who shall proceed on behalf of the city marshal as the managing officers or public service companies are required to proceed in the premises in behalf of the companies.

C. The notice herein provided for shall be given to said city official or public service company or companies, as the case may be, by the licensed house mover.

#### **SECTION 9-404: DUTIES OF PERMITTEE**

Every permittee under this article shall:

- A. Move a building only over streets designated for such use in the written permit;
- B. Notify the city clerk in writing of a desired change in moving date and hours as proposed in the application;
- C. Notify the city clerk 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. Cause red lights to be displayed during the night time on every side of the building, while standing on the street, in such a manner as to warn the public of the obstruction and shall at all times erect and maintain barricades across the streets in such a manner as to protect the public from damage or injury by reason of the removal of the building;
- E. Remove the building from the city streets after four days of such occupancy, unless an extension is granted by the mayor and the City Council;
- F. Comply with the building code, the fire zone, and any zoning ordinances now existing or hereinafter adopted and all other applicable ordinances and laws, if any, upon relocating the building in the city;
- G. Within ten days from the removal of the building, shall remove all rubbish and materials and fill all excavations to existing grade at the original site so that the premises are left in a safe and sanitary condition;
- H. See that the sewer line is plugged with a concrete stopper, the water shut off, and the meter returned to the city water office; and
- I. Notify the gas and electric service companies to remove their services.

#### **SECTION 9-405: NO GENERAL LICENSE**

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

#### **SECTION 9-406: COMPLETION OF MOVE**

At such time as the building moving has been completed, the code enforcement officer

shall inspect the premises and report to the city clerk as to the extent of damages, if any, resulting from the said relocation and whether any city laws have been violated during the said operation. Upon a satisfactory report from the code enforcement officer, the clerk shall return the corporate surety bond/insurance and cleanup deposit made by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered or in a clean and sanitary condition, the City Council may apply the cleanup deposit to defray the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit, the council may recover such excess expense by civil suit or otherwise as prescribed by law.

## **Article 5 – Fences**

### **SECTION 9-501: DEFINITIONS**

"Fence" shall mean a fence or similar structure serving as an enclosure, barrier or boundary.

"Open fence" shall mean a fence, including gates, which has, for each 1-foot wide segment extending over the entire length and height of the fence, 50% or more of the surface area in open spaces which afford a direct view through the fence.

"Solid fence" shall mean a fence, including gates, which has insufficient surface area in open space affording a direct view through it to qualify as an open fence.

### **SECTION 9-502: PERMIT REQUIRED**

No fence shall be erected or constructed within the city limits or zoning jurisdiction of the city unless a permit therefor is applied for, approved and issued by the city clerk and such fence is erected, constructed and maintained in conformance with the requirements of this article.

### **SECTION 9-503: APPLICATION PROCEDURE**

A. A written application for a fence permit shall be made upon a form prescribed by the city clerk and shall be signed by the property owner or his or her duly authorized agent or attorney. Two property owners desiring to build one fence on the common lot line of adjacent side yards or back yards may file one application jointly signed by them as applicants.

B. Each application shall designate the address to which notices shall be sent and shall be accompanied by a plot plan survey showing the location of iron pins denoting the lot lines, such survey to be certified to by a registered land surveyor. The city clerk may also require structural drawings and specification of materials with any application for a fence permit.

### **SECTION 9-504: APPLICATION APPROVAL; FEE**

The city clerk is hereby authorized to approve all applications for fence permits which appear to conform to the provisions of law and this article and to issue permits for the erection and construction thereof upon payment by the applicant in an amount set by resolution of the City Council and kept on file at the office of the city clerk. All permits issued hereunder shall be valid for a period of one year from date of issuance and, if the fence authorized is not fully erected and constructed within said period, the permit shall be null and void.

### **SECTION 9-505: LOCATION AND PLACEMENT**

For location and placement of fences, refer to current planning and zoning regulations.

#### **SECTION 9-506: CONFORMANCE WITH APPLICABLE BUILDING CODES**

All fences constructed hereafter shall conform to applicable building codes adopted by the City. If the following provisions conflict with such building code the provisions of the building code will govern.

#### **SECTION 9-507: OBSTRUCTION OF VIEW**

To avoid construction of fences which may obstruct the view of drivers, refer to current planning and zoning regulations.

#### **SECTION 9-508: HEIGHT AND MATERIALS; VARIANCE**

For height and materials allowed, refer to current planning and zoning regulations, the IBC and IPMC. Any person desiring a variance from height and material requirements shall be required to apply for a special use permit as provided in Section 9-512.

#### **SECTION 9-509: TYPES OF FENCES; VARIANCE**

For types of fences allowed, refer to current planning and zoning regulations, the IBC and IPMC. Any person desiring a variance from the prohibition against use of certain types of fences may apply for a special use permit as provided in Section 9-512.

#### **SECTION 9-510: MAINTENANCE REQUIRED**

All fences existing at the adoption of this article and all fences hereafter erected or constructed shall be maintained in good repair and in such condition as not to create or impose a hazard or danger to the public.

#### **SECTION 9-511: ENFORCEMENT**

A. Any fence permit issued hereunder may be revoked or canceled by the city clerk for reasons as follows:

1. Fraud, misrepresentation, concealment, error or material omission in the application for a fence permit or in the accompanying survey or related document; or
2. The fence authorized by the permit as issued has not been or is not being erected or constructed in conformity with the provisions of the application, its related survey and other documents or is otherwise in violation of any part or section of this article.

B. The code enforcement officer, upon determination that a violation has occurred or is occurring as above set forth, shall forthwith send to the applicant by certified mail, at the address set forth upon the application, a written notice of the revocation or cancellation of such issued permit and the reasons therefor; and the applicant shall thereupon cease and desist from all further efforts to complete the erection and construction of the fence described in the permit or, as the case may require, shall cause the fence to be removed.

#### **SECTION 9-512: APPEALS**

Any person aggrieved by any order or decision of the city clerk or other official of the city concerning the granting, issuance or denial, revocation or cancellation of a permit con-

trolled by this article may appeal to the Board of Adjustment. Any person desiring a variance from the height, materials or types of fences may apply to the Board of Adjustments for a special use permit.

## **Article 6 – Swimming Pools**

### **SECTION 9-601: PURPOSE OF ARTICLE**

The purpose of this article is to provide uniform standards of construction, installation, maintenance, operation and use of swimming pools within the city and its extraterritorial jurisdiction; to maintain a neat, pleasant appearing environment in order to assure compatibility of outdoor swimming pools with surrounding land and property usage; and generally to promote and maintain the health, safety, environment and general welfare of persons and their property in the vicinity of swimming pools and of the public generally.

### **SECTION 9-602: DEFINITIONS**

"Swimming pool" shall mean any above ground or below ground body of water in an artificial or semi-artificial receptacle or other container having the capability of being filled to a depth of over 2 feet at any point and having a surface area exceeding 100 square feet, used or intended to be used for swimming or bathing. "Swimming pool" includes all structures, equipment and fixtures, such as filters and pumps, which are appurtenant to and intended for the operation and maintenance of the same.

"Private swimming pool" or "family pool" shall mean a swimming pool maintained for use solely by the owner or lessee and his or her family, licensees, guests, permittees and invitees without payment of any fee, charge or other cost and which is located as an accessory structure on the same property as his or her residence. "Private swimming pool" or "family pool" shall include all receptacles or containers which were designed or intended to be permanently installed upon the premises, as well as those which may have been designed or intended for occasional, temporary or seasonal use, and which have the capability of being readily removable and transportable.

"Non-commercial swimming pool" shall mean a swimming pool maintained by a private club or group, not operated for profit, limited to a specific number of members or residents of a block, subdivision, neighborhood or community, for the exclusive use of those members or residents and their guests.

"Commercial swimming pool" shall mean a swimming pool operated for profit.

### **SECTION 9-603: PERMIT REQUIRED**

No swimming pool shall hereafter be constructed, installed, maintained, operated or used unless and until (A) plans, specifications and any additional information relative to such pool, as may be requested by the Planning Commission, shall have been submitted and (B) after review found to comply with all zoning, building, health, sanitary and safety requirements, and (C) a permit for the construction, installation, maintenance, operation and use is issued by the city clerk upon payment of reasonable fees established by resolution of the City Council and kept on file at the office of the city clerk.

### **SECTION 9-604: REGULATIONS**

For enforcement purposes, the city will follow the adopted current version of the ISPSC and IPMC.

### **SECTION 9-605: VIOLATION; CLOSING**

The code enforcement officer is authorized to close any private swimming pool which, in his or her opinion, is in violation of the provisions of this article. No person shall use a pool during the time it is closed. The owner of any private pool that has been closed may appeal to the Board of Adjustment and have the board determine the legality of such closing.

## **Article 7 – Penal Provision**

### **SECTION 9-701: VIOLATION: PENALTY**

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