

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: BUILDING REGULATIONS

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BUILDING PERMITS**§ 150.01 GENERAL PROVISIONS.***(A) Building permits required.*

(1) Any person or persons desiring to commence with the erection, construction, enlargement, improvement or repair of any building, structure or property in the corporate limits of the municipality shall, before proceeding with such work or prior to commencing any excavation in connection therewith, file in the office of Municipal Clerk a written application providing a detailed description of the type of improvements or repairs which he or she intends to erect or make; the materials of which the same is to be composed; the legal description and location of the real estate; the part or portion of the real estate to be occupied by the building or improvement; the estimated cost thereof; the identification of each chimney, smoke stack, flue and fire place to be erected or constructed therewith; and such additional plans and specifications as may be required by the governing body. The building permit shall be obtained prior to commencement of any proposed construction.

(2) A building permit is specifically required prior to commencement of any of the following:

(a) Making property improvements of an estimated cost of \$2,500 or more;

(b) All new construction, including additions, decks, garages, accessory buildings, porch enclosures, patio covers, carports and fences;

(c) Repair when structural members are involved or such repair results in the changing or enlarging of an opening;

(d) Interior remodeling when alterations require removal of a wall or when new rooms are added, such as a finished basement;

(e) Installation of fireplaces or other wood burning appliances;

(f) Construction of accessory buildings containing more than 64 square feet of floor area;

(g) The moving, alteration or installation of signs; or

(h) The moving or demolition of buildings or other structures; and construction of concrete improvements abating city paving.

(1999 Code, § 9-101)

(B) *Application; approval; issuance.*

(1) Application to erect, construct, enlarge, improve or repair a building or other structure located within the corporate limits of the city and up to one mile in all directions of said corporate limits shall be filed in compliance with division (A) of this section.

(2) The application shall be in writing on a form provided by the city and shall be accompanied by all documentation required by division (A) of this section. The application and such supporting documents shall be filed with the City Clerk and the fee required by division (A) of this section \$25 shall be paid. This fee shall serve as compensation for the City Utility Superintendent to process the application.

(3) The City Utility Superintendent shall review the application and conduct a review and investigation to determine compliance by the proposed project with all city ordinances and regulations and to assure that there will be no adverse impact upon the municipal utilities system. Upon determining no adverse impact and full regulatory compliance, the application shall be signed by the City Utility Superintendent and returned to the City Clerk.

(4) Upon approval by the City Utility Superintendent, the City Clerk shall sign and issue the building permit to the applicant.

(1999 Code, § 9-102)

(Ord. 762, passed 6-2-2003; Ord. 775, passed 11-1-2004; Ord. 852, passed 10-6-2014)

§ 150.02 VARIANCES NOT PERMITTED.

It shall be unlawful for any person to whom a permit to erect, construct, improve or repair a building within the corporate limits of the municipality and within one mile of all directions of said corporate limits, is issued, as provided by this municipal code, to vary from the plans and specifications submitted to the governing body in the erection, construction, improvement or repair authorized, in any manner, so that such erection, construction, improvement or repair shall not conform to the provisions of this code.

(1999 Code, § 9-103) (Ord. 762, passed 6-2-2003) Penalty, see § 150.99

§ 150.03 PERMIT LIMITATION; EXPIRATION; REISSUANCE; UNLAWFUL INITIATION OR CONTINUANCE; ABATEMENT.

(A) Any project permitted by a building permit issued by the municipality shall be completed within 365 days of the date of issuance.

(B) All building permits issued by the municipality shall expire 365 days after the date of issuance. No person shall initiate or continue work on any project permitted by a building permit which has expired.

(C) Any person holding an expired building permit may apply for a new building permit. If the project permitted by the expired building permit has been initiated prior to the expiration of said permit, any new building permit shall be issued and approved pursuant to the regulations and ordinances existing at the time of the issuance of the original permit. If the project permitted by the expired building permit had not been initiated prior to the time of its expiration, any new building permit shall be issued and approved pursuant to the ordinances and regulations existing at the time of the new application.

(D) In case a project for which there is not a valid, unexpired building permit is initiated or continued, the governing body or law enforcement officials, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful initiation or continuance of such project or to restrain, correct or abate such violation, to prevent the occupancy of the premises on which said violation occurred, or to prevent any illegal act, conduct, business or use in or about such premises. (1999 Code, § 9-104) Penalty, see § 150.99

§ 150.04 COMMERCIAL BUILDINGS OUTSIDE FIRE LIMITS.

(A) *Prohibited; exception provided.* No building shall be erected or constructed in that area of the municipality (including one mile in all directions of the corporate limits) outside of the fire limits, as defined in § 93.24, for retail, wholesale, industrial, manufacturing or other commercial purpose, nor shall any existing building be used for any such purposes, except when a building permit is allowed to be issued by the governing body as provided in divisions (B) and (C) below. (1999 Code, § 9-105)

(B) *Expansion; notice to property owners.* In those portions of said municipality (including one mile in all directions of the corporate limits) outside the fire limits, the governing body may authorize commercial structures and uses in the normal continuous expansion of commercial structures into additional territory outside the fire limits, but any applicant for such permit shall, at least ten days prior to the action thereon by the governing body, give notice of the pendency of said application to all owners of property abutting the proposed location of said structure, and to all owners of residences within 100 feet of said location, and furnish proof of said notice to the governing body; said notice required by this section, may be served personally or by mailing. (1999 Code, § 9-106)

(C) *Expansion; when allowed.* The governing body may, at its discretion, authorize construction and uses of buildings for retail, wholesale, industrial, manufacturing or other commercial purposes at other locations outside said fire limits when it will be conducive to the public welfare and where there is first filed with the Municipal Clerk the written consent of persons owning three-fourths of the property within 300 feet of said proposed location, together with the written consent of the persons owning the lots and partial lots within 50 feet of the premises upon which it is proposed to locate or use said structure for retail, wholesale, industrial, manufacturing or other commercial purposes. Buildings authorized as provided in this section shall be located at such points on the real estate and shall have such setback lines as the governing body may specify. (1999 Code, § 9-107)
(Ord. 762, passed 6-2-2003) Penalty, see § 150.99

§ 150.05 MINOR REPAIR WORK.

Permits to repair, alter, improve or add to an existing structure within and without the fire limits (and up to one mile from the corporate limits of the municipality) shall be granted where the repairs, alterations, improvements or additions to be made do not result in more than a 50% change of the original structure, exclusive of foundation, and where alterations, improvements or additions are made of materials prescribed in § 93.25; provided, however, if the application to repair, alter, improve or add to existing frame buildings within the fire limits result in more than a 50% change of the original structure, exclusive of foundation, such application shall be refused until the applicant shall request a permit to erect a new building or structure of noncombustible material in accordance with the provisions of §§ 93.20 through 93.30. Repairs, alterations or improvements to existing non combustible buildings or structures in said fire limits shall be allowed only on condition that materials prescribed in §§ 93.20 through 93.30 be used for the making thereof; provided, however, permits for minor repair on existing wooden or iron clad structures such as to stop leaky shingle roofs, or siding on existing warehouses or storage sheds, where the work might fairly be construed as patching, or covering small areas on the outside or inside of a combustible building, shall not require fireproof materials.
(1999 Code, § 9-108) (Ord. 762, passed 6-2-2003) Penalty, see § 150.99

§ 150.06 BARRICADES AND LIGHTS.

(A) It shall be the duty of the owner, tenant, lessee or contractor, and any or all of them during the construction of any building or improvement upon or near the line of any public street, highway, alley or sidewalk to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day, and by red warning lights at night.

(B) In case of the failure, neglect or refusal of said persons, or any of them, to erect such guards and keep the said street, highway or sidewalk well and securely guarded, it shall be the duty of the City Supervisor to forthwith stop all work upon said buildings and improvements until said guards are erected and kept in the manner aforesaid.

(1999 Code, § 9-109) Penalty, see § 150.99

§ 150.07 FEES FOR APPLICATION AND PERMIT.

The Municipal Clerk shall, at the time of filing the application for the issuance of any building permit, charge and collect in advance a fee of \$25. Said fee shall be the property of the municipality and shall be paid over to the Municipal Treasurer for credit to the general fund of the municipality.
(1999 Code, § 9-110) (Ord. 775, passed 11-1-2004) Penalty, see § 150.99

§ 150.08 DUPLICATE TO COUNTY ASSESSOR.

Whenever a building permit is issued for the erection, alteration or repair of any building within the Municipality's jurisdiction and the improvement is estimated to cost \$2,500 or more, a duplicate of such permit shall be forwarded by the Clerk to the County Assessor.

(1999 Code, § 9-111) (Ord. 762, passed 6-2-2003; Ord. 775, passed 11-1-2004)

§ 150.09 MUNICIPAL OFFICIALS; DUTY.

A municipal official charged with the duty or responsibility of accepting or approving plans, specifications, plats and reports shall not accept or approve plans, specifications, plats or reports which have not been prepared in accordance with the Engineers and Architects Regulation Act.

(1999 Code, § 9-112) (Ord. 783, passed 2-7-2005)

BUILDING MOVING**§ 150.20 REGULATIONS.**

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

(B) Application may be made to the Municipal Clerk, and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the governing body may require.

(C) The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located.

(D) The Municipal Clerk shall refer the said application to the County Sheriff for approval of the proposed route over which the said building is to be moved. Upon approval of the governing body, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check or cash in an amount set by motion of the governing body and conditioned upon moving said building without doing damage to any private or municipal property is filed with the Municipal Clerk prior to the granting of any permit.

(E) No moving permit shall be required to move a building that is ten feet wide, or less, and 20 feet long, or less, and when in a position to move, 15 feet high, or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using or operating the said poles, wires or line shall upon proper

notice of at least 24 hours, be present and assist by disconnecting the said poles, wires or line relative to the building moving operation.

(F) All expense of the said disconnection, removal or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise.

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

(Neb. RS 60-6,288 to 60-6,294, 60-6,296) (1999 Code, § 9-201) Penalty, see § 150.99

§ 150.21 DEPOSIT.

At such time as the building moving has been completed, the County Sheriff shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any municipal laws have been violated during the said operation. Upon a satisfactory report from the County Sheriff, the Municipal Clerk shall return the corporate surety bond, cash or check deposited 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 governing body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the governing body, as required herein, the governing body may recover such excess expense by civil suit or otherwise as prescribed by law.

(1999 Code, § 9-202) Penalty, see § 150.99

BUILDING REGULATIONS

§ 150.35 PROHIBITION OF LEAD PIPES, SOLDER AND FLUX.

(A) Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead-free.

(B) For purposes of this section, ***LEAD-FREE*** shall mean:

(1) Solders and flux: not more than 0.2% lead; and

(2) Pipe and pipe fittings: not more than 8% lead.

(Neb. RS 71-5301) (1999 Code, § 9-401) Penalty, see § 150.99

BUILDING DEMOLITION**§ 150.50 PERMITS; REQUIRED.**

Any person or persons desiring to demolish, by any intentional means, any building or other structure located in the corporate limits of the city (hereinafter “municipality”) shall, before proceeding with said demolition, file in the office of the Municipal Clerk a written application designating the building or structure which is intended to be demolished; the means by which said demolition is to occur; the legal description and location of the real estate; a specific identification of any basement or foundation that will be exposed after such demolition; the anticipated dates of commencement and completion of said demolition; together with any additional information as may be required by the Mayor and City Council, and shall obtain a permit therefor as hereinafter provided prior to commencing the proposed demolition.

(1999 Code, § 9-501)

(Ord. 742, passed 6-5-2000)

§ 150.51 PERMITS; APPLICATION; FEE; APPROVAL; ISSUANCE.

Applications to demolish a building or other structure located within in the corporate limits of the municipality shall be filed in compliance with § 150.50. Said application shall be in writing, filed with the Municipal Clerk, addressed to the Mayor and City Council, and shall be accompanied by all documents and information required in § 150.50. The Municipal Clerk shall, at the time of filing the application, charge and collect in advance, a fee of \$10. Said fee shall be the property of the city and shall be paid to the Municipal Treasurer for credit to the General Fund of the city. If such application and included information are in conformity with the provisions of the municipal code, the Mayor and City Council shall order the City Building Supervisor to issue the permit to the applicant.

(1999 Code, § 9-502)

(Ord. 742, passed 6-5-2000)

§ 150.52 RESTORATION OF PREMISES.

No building demolition permits shall be issued to any applicant, unless such applicant has certified to the Mayor and City Council, as part of the application for said permit, that within 90 days after the completion of the building demolition, that said applicant will restore the premises upon which such building or other structure was situated to a safe, clean and sanitary condition. The restoration of the premises to the required condition shall require that all debris be cleared away; that any excavation remaining be filled in; and that any sewer line to the property be capped. In the event that any such excavation cannot be restored as required by this section within 90 days after the demolition of the building or other structure, then and in that event, for good cause shown, the Mayor and City Council

may permit the owner to erect a safe fence, at least four feet in height, surrounding such excavation for such additional period of time as may be determined by the governing body.

(1999 Code, § 9-503)

(Ord. 742, passed 6-5-2000)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of the city building permit ordinances, specifically including §§ 150.01 through 150.09, shall be deemed guilty of an offense and, upon conviction thereof shall be fined not more than \$500, nor less than \$100 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1999 Code, § 9-113)

(C) (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

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

(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 9-601)

(Ord. 744, passed 7-10-2000; Ord. 790, passed 2-6-2006)

CHAPTER 151: FLOOD REGULATIONS

Section

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§ 151.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES.

The legislature of the state has in R.R.S. §§ 31-1001 to 31-1023 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare. Therefore, the Mayor and City Council ordains as follows.

(A) *Findings of fact.*

(1) *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.

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

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

(b) 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.

(B) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those losses described in division (A)(1) above by applying the provisions of this chapter to:

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

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

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

(4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.
(1999 Code, § 11-201) (Ord. 773, passed 7-6-2004)

§ 151.02 DEFINITIONS.

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

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 MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

EXPANSION OF EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional 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. 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/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

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

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

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

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

HISTORIC STRUCTURE. Any structure that is:

- (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 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.

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

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

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

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

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

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

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

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

START OF CONSTRUCTION.

(1) For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. No. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date.

(2) The actual ***START*** means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(3) For a substantial improvement, the actual ***START OF CONSTRUCTION*** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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

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

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.
(1999 Code, § 11-219) (Ord. 773, passed 7-6-2004)

§ 151.03 LOCAL ADMINISTRATOR RESPONSIBILITIES.

(A) The Utilities Superintendent hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this chapter and all other ordinances of the city, now in force or hereafter adopted, related to zoning, subdivision or building codes.
(1999 Code, § 11-202)

(B) The Utilities Superintendent shall be appointed to these additional responsibilities by this chapter and his or her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Utilities Superintendent, the governing body of the city shall designate an acting administrator.
(1999 Code, § 11-203)
(Ord. 773, passed 7-6-2004)

§ 151.04 DESIGNATION OF CURRENT FHBM/FIRM.

The governing body of the city hereby designates the current flood hazard boundary map (FHBM) flood insurance rate map (FIRM) dated September 30, 2004 and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.
(1999 Code, § 11-204) (Ord. 773, passed 7-6-2004)

§ 151.05 PERMITS REQUIRED.

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

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

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

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

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

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

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

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

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

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

(1999 Code, § 11-205) (Ord. 773, passed 7-6-2004)

§ 151.06 DEVELOPMENT PERMIT APPLICATIONS REVIEW.

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

(1999 Code, § 11-206) (Ord. 773, passed 7-6-2004)

§ 151.07 ALL APPLICATIONS REVIEW.

The Utilities Superintendent, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in § 150.02) will:

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

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

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

(3) Nonresidential construction: new construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this division (A) are satisfied. Such certification shall be provided to the local administrator; and

(4) Require for all new construction and substantial improvements.

(a) 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.

(b) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria.

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

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

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

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

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

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

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

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

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

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

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

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

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

(H) Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of division (G) above be elevated so that either:

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

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of division (F) above.

(I) Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either:

- (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. 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.

(1999 Code, § 11-207) (Ord. 773, passed 7-6-2004)

§ 151.08 SUBDIVISION APPLICATIONS.

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

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

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

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

(D) All public utilities and facilities are located so as to minimize or eliminate flood damage.

(1999 Code, § 11-208) (Ord. 773, passed 7-6-2004)

§ 151.09 WATER AND SEWAGE SYSTEMS.

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

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

(1999 Code, § 11-209) (Ord. 773, passed 7-6-2004)

§ 151.10 STORAGE OF MATERIALS AND EQUIPMENT.

(A) The governing body of the city will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The city will notify in riverine situations, adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.

(B) Moreover, the city will work with appropriate state and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973 and all amendments thereto.

(1999 Code, § 11-210) (Ord. 773, passed 7-6-2004)

§ 151.11 VARIANCE PROCEDURES.

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

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

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

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

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

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

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

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

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

(E) Conditions for variances:

(1) Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (divisions (E)(2) through (E)(5)) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases;

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

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

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

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

(5) The applicant 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 base flood level will result an 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 of life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter. (1999 Code, § 11-211) (Ord. 773, passed 7-6-2004)

§ 151.12 NONCONFORMING USE.

(A) A structure or the use of a structure or premises which was lawful before the passage of 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 12 consecutive months, any future use of the building premises shall conform to this chapter. The Utility Department shall notify the Utilities Superintendent in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.

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

(B) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. (1999 Code, § 11-212) (Ord. 773, passed 7-6-2004)

§ 151.13 COMPLIANCE WITH EXISTING FEDERAL LAW REQUIRED.

It is the interest of the Mayor and City Council in adopting this chapter, to meet the standards set forth in § 60.3(d) of the National Flood Insurance Program (NFIP) regulations (44 C.F.R. parts 59 et seq.), which standards are incorporated herein by this reference. Strict compliance with such standards is required. A current copy of the applicable standards referred to herein shall be maintained in the office of the City Clerk, and shall be available for public inspection during regular business hours. (1999 Code, § 11-213) (Ord. 773, passed 7-6-2004)

§ 151.14 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate or impair any existent easements, covenants or deed restrictions; however, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. (1999 Code, § 11-215) (Ord. 773, passed 7-6-2004)

§ 151.15 INTERPRETATION.

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

(1999 Code, § 11-216) (Ord. 773, passed 7-6-2004)

§ 151.16 WARNING AND DISCLAIMER OF LIABILITY.

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

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

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

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

(1999 Code, § 11-217) (Ord. 773, passed 7-6-2004)

§ 151.17 APPEAL.

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

(1999 Code, § 11-218) (Ord. 773, passed 7-6-2004)

§ 151.99 PENALTY.

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

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

(3) Each day such violation continues shall be considered a separate offense.

(B) Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
(1999 Code, § 11-214) (Ord. 773, passed 7-6-2004)

CHAPTER 152: ZONING CODE

Section

- 152.01 Zoning regulations adopted
- 152.02 Official zoning map adopted

§ 152.01 ZONING REGULATIONS ADOPTED.

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity and general welfare of the community of the city, and to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public improvements, the zoning regulations of the city, presented and prepared by said city were adopted on June 10, 1996. The adoption of such zoning regulations includes any amendments thereto as may be made from time to time. Said zoning regulations, as well as such amendments, are hereby incorporated by reference in this section as if set out in full. One copy of the zoning regulations shall be maintained by the Municipal Clerk at the city office and available for public inspection during regular office hours. (1999 Code, § 11-101) (Ord. 701, passed 6-10-1996; Ord. 725, passed 6-1-1998; Ord. 765, passed 10-6-2003; Ord. 784, passed 2-7-2005)

§ 152.02 OFFICIAL ZONING MAP ADOPTED.

(A) The city, and certain properties within and up to one mile in all directions of its corporate limits are hereby divided into zones, or districts, as shown on the official zoning map which, together with all explanatory material and documentation is hereby adopted by reference, declared to be part of the zoning regulations of the city, and further declared to be part of this section.

(B) The official zoning map, as adopted by Ord. 701 and amended by Ord. 719, shall be identified by the signature of the Mayor, attested to by the Municipal Clerk, and bearing the seal of the city under the following words:

“This is to certify that this is the official zoning map referred to in Section 2 of Ordinance No. 719 of the City of Hebron, Nebraska, adopted April 6, 1998.”

(C) The official zoning map, together with all changes, amendments or additions thereto, shall be maintained in the office of the Municipal Clerk and available for public inspection during regular office hours.

(1999 Code, § 11-102)