

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. ZONING AND SUBDIVISION REGULATIONS

CHAPTER 150: BUILDING REGULATIONS

Section

Regulatory Codes

150.01 International Building and Residential Codes; adopted by reference

Building Permits and Regulations

150.15 Requirement
150.16 Limitation
150.17 Duplicate to County Assessor
150.18 Barricades and lights

Moving of Buildings

150.30 Definitions
150.31 General permit required
150.32 Application; issuance; term; renewal
150.33 Deposit
150.34 Bond
150.35 Permission to move
150.36 Inspection
150.37 Cutting trees

Unsafe Buildings

150.50 Adoption of International Property Maintenance Code, 2006 edition

Building Inspector

150.70 Power and authority
150.71 Right of entry
150.72 Permit cards
150.73 Time of inspection
150.74 Appeal from decision

REGULATORY CODES

§ 150.01 INTERNATIONAL BUILDING AND RESIDENTIAL CODES; ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the 2003 edition of the International Building Code and the 2003 edition of the International Residential Code, printed in book or pamphlet form, are hereby incorporated by reference as though printed in full herein insofar as those codes do not conflict with the statutes of the state. Whenever new editions of these codes are published, those new editions shall be considered the municipal building codes. The provisions of the International Building Code and International Residential Code shall be controlling throughout the municipality and throughout its zoning jurisdiction. At least 1 copy of the foregoing codes shall be on file in the office of the Municipal Clerk and made available for public inspection at any reasonable time. (Neb. RS 17-1001, 18-132, 19-902, and 19-922) (Am. Ord. 2421, passed 10-20-1987; Am. Ord. 2875, passed 12-16-2003)

BUILDING PERMITS AND REGULATIONS

§ 150.15 REQUIREMENT.

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 Assistant Street Superintendent an application for a building permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon upon payment of the permit fee set by resolution of the City Council. The application, plans, and specifications so filed with the Assistant Street Superintendent shall be checked and examined by the Building Inspector or his designee, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the Building Inspector or his designee shall authorize the Municipal Clerk to issue the 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. Extension of construction period may be granted by request to the Building Inspector. (Am. Ord. 2954, 11-7-06) Penalty, see § 10.99

§ 150.16 LIMITATION.

If the work for which a permit has been issued shall not have begun within 6 months of the date thereof, or if the construction is discontinued for a period of 6 months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit. Penalty, see § 10.99

§ 150.17 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 the permit shall be issued to the County Assessor. (Neb. RS 18-1743) (Am. Ord. 2892, passed 9-7-2004)

§ 150.18 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 that 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 these persons to erect these guards shall constitute a violation of this section, and the municipal police, Chief of Police, or the Building Inspector shall stop all work until guards are erected and maintained as required. Penalty, see § 10.99

MOVING OF BUILDINGS

§ 150.30 DEFINITIONS.

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

BUILDING MOVERS or ***HOUSE MOVERS***. Any person who engages in the work of moving in any way or raising, lowering, supporting by shoring, or upon temporary blocking any building or other structure or any part or parts thereof.

§ 150.31 GENERAL PERMIT REQUIRED.

It shall be unlawful for any person, persons, or corporation to engage in the business of building mover within the corporate limits until the person or corporation has qualified for and obtained a general permit for the current year as hereinafter set forth. Penalty, see § 10.99

§ 150.32 APPLICATION; ISSUANCE; TERM; RENEWAL.

Before a permit shall be granted to any person the applicant shall satisfy the City Council as to his, her, or their qualifications and experience to do and perform the things set forth herein. Upon satisfying the City Council of his, her, or their qualifications and upon the payment of a fee set by resolution of the City Council and on file in the office of the Municipal Clerk, together with the payment of a cash deposit and the furnishing of a bond, a general permit shall be issued to the individual, persons, or corporation to engage in the business of building moving either as an individual or for and in the name of the firm or corporation of which he or she is a member or representative. This general permit shall entitle the holder thereof to obtain permits to move, raise, lower, or support in any approved temporary manner any building or other structure within

the municipality from the date of issuance of the general permit until the December 31 next ensuing. The general permit may thereafter be renewed upon payment of a renewal fee. The renewed general permit shall be valid up to and including December 31 next ensuing, from the date of renewal. General permits and renewals thereof shall not be transferable and shall be subject to cancellation as hereinafter set forth. Penalty, see § 10.99

§ 150.33 DEPOSIT.

(A) Before any person enters into any work in moving a building after a permit has been granted upon his or her application to the City Council as hereinafter provided, he or she shall deposit with the municipality a sum set by resolution of the City Council and on file at the office of the Clerk as security for the restoration of any street, alley, or other city property, to its proper condition where the street, alley, or other city property has been damaged by that person. The deposit shall be drawn against by the municipality to pay for the restoration of any street, alley, or other city property to the condition that street, alley, or other city property was in prior to the damage, and the Assistant Street Superintendent shall assess the damages caused to any tree or other city property which cannot be restored and draw from the fund the amount of the damages.

(B) The proper official shall keep an accurate account of all these deposits and all drafts by the municipality against these deposits. The drafts must contain the name of the person who caused the damage.

(C) When the permittee has completed the work in moving the building for which the permit is granted, he or she shall notify the Assistant Street Superintendent, who shall make an inspection of the streets over which the house was moved to determine the damages, if any, to the property. If no damages were caused, the Assistant Street Superintendent shall notify the proper official who, upon receiving this notice, shall return the whole sum deposited; provided, however, that if the Assistant Street Superintendent determines that damages were caused to city property by the permittee in moving the house, then only that part of the deposit shall be returned to the permittee as remains after the damages have been deducted.

(Am. Ord. 2944, 8-15-06) Penalty, see § 10.99

§ 150.34 BOND.

The bond required to be filed by any applicant for a general permit as building mover shall be in a sum set by resolution of the City Council and on file at the office of the Clerk, executed by at least two good and sufficient sureties, or executed by any one qualified surety company alone. This bond, before being accepted, shall be approved by the Assistant Street Superintendent. The bond shall be conditioned, among other things, on the applicant paying any and all damages which may occur to any public or private property, whether the damages or injury is inflicted by that party or by his or her agents, employees, or workers, and conditioned also that the party will save and indemnify and keep harmless the municipality against all liabilities, judgments, costs, and expenses which may in anywise accrue against the municipality in consequence of the issuance to the applicant of any permit to move any building or other structure or any part or parts thereof, and that this party will in all things strictly comply with the conditions of the general permit and the laws of the municipality relating to house movers.

Should the bond of the applicant be not approved, the Municipal Clerk shall return the fee paid by the applicant. (Am. Ord. 2944, 8-15-06) Penalty, see § 10.99

§ 150.35 PERMISSION TO MOVE.

(A) Before moving any building or structure from one lot to another, or from one piece of property to another at a different and entirely separate location, or from one location on one lot to another place on that lot, permission must be obtained from the Assistant Street Superintendent. Before any work of any nature is done on that operation, application to move the building structure shall be filed with the Assistant Street Superintendent, stating the address and legal description of the property upon which the building or structure to be moved is located as well as the description of the property to which the building or structure is to be moved, the size, height, type of construction, and condition of the building. Every applicant for this type of permit shall, at the time of filing the same with the Assistant Street Superintendent, pay to the Clerk the cost of publication of the notice to the public.

(B) It shall be the duty of the Assistant Street Superintendent to determine upon what streets it shall be necessary for the building mover to travel in the moving of any building or structure, and the Assistant Street Superintendent shall designate in the permit the streets over and across which the building or structure shall be moved. The fee for the permit shall be set by resolution of the City Council and on file at the office of the Municipal Clerk.

(C) It shall be unlawful for any such building mover, under the permit, to move the building or structure for which permit is given, over, onto, or along any street other than the streets mentioned in the permit.

(D) When the building or other structure is to be moved along or across any paved street in the municipality, the Assistant Street Superintendent may order in the permit that the house mover properly plank all or any portion of the street, pavement, sidewalk, or curbs over which the house is to be moved.

(Am. Ord. 2944, 8-15-06) Penalty, see § 10.99

§ 150.36 INSPECTION.

(A) Before a permit is issued for any of the building moving operations and before any of the operations defined therein shall have begun, the Assistant Street Superintendent shall examine the building or other structure or part thereof on which it is desired to perform those operations and report his or her findings to the City Council.

(B) The Assistant Street Superintendent may refuse to grant a permit if any of the following conditions are found to exist.

(1) No building or other structure shall be moved into the municipality or from one place to another if the building or structure is in such a condition that it is worth less than 40% of the cost of a similar new one.

(2) No building or other structure shall be moved into the municipality from its present location to a new location in the municipality if to do so would be in violation of the zoning laws of the municipality.

(Am. Ord. 2944, 8-15-06) Penalty, see § 10.99

§ 150.37 CUTTING TREES.

It shall be unlawful for any person engaged in the business of building moving to remove, cut, or temporarily bend by rope, tackle, or otherwise, any tree or any limb or branch of any tree located upon property of the municipality for the purpose of obtaining passageway through the streets for a house or other structure unless he or she shall have first obtained the approval and consent of the Street and Sanitation Superintendent. All cutting or temporary displacing in any manner of these trees or any parts of trees shall be done under the direction of the Public Works Director. (Am. Ord. 2358, 2-4-86; 2944, 8-15-06) Penalty, see § 10.99

UNSAFE BUILDINGS

§ 150.50 ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE, 2006 EDITION.

(A) Except as hereinafter provided by specific amendment, the International Property Maintenance Code, 2006 edition, published by the International Code Council, is hereby adopted with the following amendments, incorporated and made a part of this code the same as though spread at large herein. One printed copy of said publication has been filed in the office of the City Clerk for the use and examination of the public.

(B) Sections 101.1, 103.5, 304.14, 602.3, and 602.4 of the International Property Maintenance Code, 200 edition, are amended to read as follows:

Section 101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Fairbury, Nebraska, hereinafter referred to as “this code.”

Section 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be indicated by resolution adopted by the city council.

Section 304.14 Insect screens. During the period from April 1 to October 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply an approved heating source during the period from September 1 to May 31 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions: (1) When the outdoor temperature is below the winter outdoor temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code. (2) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1st to May 31st to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions: (1) Processing, storage and operation areas that require cooling or special temperature conditions. (2) Areas in which persons are primarily engaged in vigorous physical activities.
(Ord. 2974, 5/20/08)

BUILDING INSPECTOR

§ 150.70 POWER AND AUTHORITY.

The Building Inspector shall be the municipal official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He or she shall inspect all buildings repaired, altered, built, or moved in the municipality as often as necessary to ensure compliance with all municipal ordinances. He or she shall have the power and authority to order, at the direction of the City Council, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He or she shall, at the direction of the City Council, issue permission to continue any construction, alteration, or relocation when the City Council 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. The written order may be served by any municipal police officer. In the event that the City Council fails to appoint a Building Inspector, the Fire Chief shall be the Building Inspector ex officio.

§ 150.71 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. Penalty, see § 10.99

§ 150.72 PERMIT CARDS.

Upon the issuance of a building permit, the Building Inspector shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit, and the date of issuance. The card shall be prominently displayed on the principal frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made. Penalty, see § 10.99

§ 150.73 TIME OF INSPECTION.

The Building Inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the municipal code: foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking, and backing are in place and all pipes, chimneys, and vents are complete; and final inspection shall be made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the Building Inspector. Penalty, see § 10.99

§ 150.74 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 10 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 is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the Building Inspector and the applicant.

CHAPTER 151: ZONING AND SUBDIVISION REGULATIONS

Section

City Regulations Adopted by Reference

- 151.01 Comprehensive Plan adopted by reference
- 151.02 Zoning regulations adopted by reference
- 151.03 Subdivision regulations adopted by reference

Wellhead Protection Area

- 151.15 Findings
- 151.16 Definitions and interpretations
- 151.17 Restricted wellhead structure or activity; permit required
- 151.18 Setback requirements
- 151.19 Administration and enforcement
- 151.20 Additional structures and activities; permit
- 151.21 Construction; permit application
- 151.22 Existing structures and activities
- 151.23 Injunctive relief; remedies not exclusive

CITY REGULATIONS ADOPTED BY REFERENCE

§ 151.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE.

The city's Comprehensive Development Plan, as it may be amended from time to time, is adopted by reference and shall be a part of this code as if set forth fully herein. (Ord. 2680, 3-18-97; Am. Ord. 2847, 3-19-02)

§ 151.02 ZONING REGULATIONS ADOPTED BY REFERENCE.

The city's zoning regulations, as they may be amended from time to time, are adopted by reference and shall be a part of this code as if set forth fully herein. (Ord. 2718, 9-2-97)

§ 151.03 SUBDIVISION REGULATIONS ADOPTED BY REFERENCE.

The city's subdivision regulations, as they may be amended from time to time, are adopted by reference and shall be a part of this code as if set forth fully herein. (Ord. 2718, 9-2-97; Am. Ord. 2882, 3-16-04)

WELLHEAD PROTECTION AREA

§ 151.15 FINDINGS.

The findings set forth in Ord. 2848 are hereby made a part of this subchapter as fully as if set out at length herein. (Ord. 2848, 8-6-02)

§ 151.16 DEFINITIONS AND INTERPRETATIONS.

Words or phrases used in this subchapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this subchapter its most reasonable application. Definitions set forth in county zoning regulations shall be applied in the event of any ambiguity or uncertainty in the interpretation of the rules and regulations established by this

subchapter. (Ord. 2848, 8-6-02)

§ 151.17 RESTRICTED WELLHEAD STRUCTURE OR ACTIVITY; PERMIT REQUIRED.

(A) It shall be unlawful for any person to place, install, construct, or replace any of the following structures or conduct any of the following activities within the Wellhead Protection Area, except as may be provided herein, to-wit:

- (1) Non-potable water well;
- (2) Sewage lagoon;
- (3) Absorption or disposal field for waste;
- (4) Cesspool;
- (5) Dump;
- (6) Livestock confinement facilities/operation;
- (7) Pit toilet;
- (8) Sanitary landfill;
- (9) Chemical or petroleum product storage;
- (10) Septic tank;
- (11) Sewage treatment plant;
- (12) Sewage wet well;
- (13) Sanitary sewer connection;
- (14) Sanitary sewer manhole;
- (15) Sanitary sewer line; or
- (16) Sanitary sewer line (permanently watertight).

(B) The placing, installing, constructing, or replacing of any structure or activity as set forth in division (A) of this section, hereinafter termed "wellhead structure or activity," within the Wellhead Protection Area shall not be permitted after the effective date of this subchapter unless a permit approved by the Wellhead Protection Administrator has been obtained. The owner of any wellhead structure or activity shall have the burden of establishing the existence and use of that wellhead structure or activity at the time of the effective date of Ord. 2848. (Ord. 2848, 8-6-02) Penalty, see § 10.99

§ 151.18 SETBACK REQUIREMENTS.

(A) No permit shall be issued by the Wellhead Protection Administrator within the following setback distances from any municipal water well:

<i>Structure or Activity</i>	<i>Minimum Distance From Public Water Supply (measured in feet)</i>
Absorption or disposal or leach field for	500
Cesspool (illegal anywhere)	500
Chemical or petroleum storage	1,000
Fertilizer and pesticide storage	1,000

<i>Structure or Activity</i>	<i>Minimum Distance From Public Water Supply (measured in feet)</i>
Lawn & garden recycling compost	1,000
Livestock confinement facilities/operation	1,000
Non-potable water well	1,000
Pit toilet	1,000
Sanitary landfill	1,000
Sanitary sewer connection	100
Sanitary sewer line	50
Sanitary sewer line (permanently watertight)	10
Sanitary sewer manhole	100
Septic tank	500
Septic tank (gpd exceeding 1,000)	1,000
Sewage lagoon	1,000
Sewage treatment plant	1,000
Sewage wet well	1,000

(B) Any activity described above located within the defined setback distance shall be considered *prima facie* a hazard to the quality of the municipal water supply. (Ord. 2848, 8-6-02) Penalty, see § 10.99

§ 151.19 ADMINISTRATION AND ENFORCEMENT.

The Board of Public Works of the city shall be responsible for implementation and enforcement of the rules and regulations established by this subchapter and shall consider all applications filed pursuant hereto. All applications shall be approved or rejected by roll call vote. The Board of Public Works shall designate 1 of its employees as Wellhead Protection Administrator, which employee shall be charged with administration of the rules and regulations. (Ord. 2848, 8-6-02) Penalty, see § 10.99

§ 151.20 ADDITIONAL STRUCTURES AND ACTIVITIES; PERMIT.

Any wellhead structure or activity not prohibited by § 151.18 above shall be allowed upon determination by the Board of Public Works that the activity does not constitute a hazard or threat to the quality of the municipal water supply and upon issuance of a permit by the Wellhead Protection Administrator. (Ord. 2848, 8-6-02) Penalty, see § 10.99

§ 151.21 CONSTRUCTION; PERMIT APPLICATION.

Prior to placing, installing, constructing, expanding, or replacing any wellhead structure or activity, the owner of the real estate upon which the structure or activity is proposed shall file with the Wellhead Protection Administrator an application for a wellhead structure or activity

permit. The application shall be on a form furnished by the Wellhead Protection Administrator and shall include supporting information indicating why approval would not adversely impact the city's municipal water supply. The Wellhead Protection Administrator shall thereafter submit the application to the Board of Public Works for consideration. Prior to acting upon this application, the Board of Public Works may seek an engineering report, recommendations of the Little Blue Natural Resources District, the State Department of Environmental Quality, or any other party or agency in evaluating the impact of the proposed structure or activity on the municipal water supply. A permit shall be issued if the Board of Public Works determines that the structure or activity is unlikely to contaminate or pollute the water supply. (Ord. 2848, 8-6-02) Penalty, see § 10.99

§ 151.22 EXISTING STRUCTURES AND ACTIVITIES.

Wellhead structures or activities in existence and use in the Wellhead Protection Area as of the effective date of Ord. 2848 shall continue to be permitted unless that continued existence or use, in the opinion of the Board of Public Works of the city, presents a hazard to the quality of the municipal water supply. If the Board of Public Works determines that an existing wellhead structure or activity presents a hazard, the Board of Public Works shall authorize the Wellhead Protection Administrator to notify the owner of the structure or activity to cease and desist that structure or activity. If the owner of the wellhead structure or activity desires to continue operation of the structure or activity, the owner may seek to procure a permit pursuant to this subchapter. If the owner does not cease and desist pursuant to this notice, the Wellhead Protection Administrator may proceed pursuant to §§ 151.23 and 10.99 of this code against the owner and the wellhead structure or activity. (Ord. 2848, 8-6-02) Penalty, see § 10.99

§ 151.23 INJUNCTIVE RELIEF; REMEDIES NOT EXCLUSIVE.

In addition to penalties as set forth in § 10.99 for violations of this subchapter, the city may obtain injunctive relief and sue for damages and remediation, and pursue any other remedy available to it under the laws of the state or other authority having jurisdiction over such matters. (Ord. 2848, 8-6-02) Penalty, see § 10.99