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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, 10-20-1987; Am. Ord. 2875, 12-16-2003)

BUILDING PERMITS AND REGULATIONS

§ 150.05 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

§ 150.06 LIMITATION.

If the work for which a permit has been issued shall not have begun within 6 months of the date thereof or if 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 the original. Penalty, see § 10.99

§ 150.07 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, 9-7-04)

§ 150.08 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. The failure, neglect, or refusal to erect such 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

***RESIDENTIAL RENTAL CERTIFICATE OF OCCUPANCY
AND INSPECTION PROGRAM***

(Ord. No. 3020, 7-3-12)

§ 150.10 TITLE.

The title of this Section shall be known as the Residential Rental Certificate of Occupancy and Inspection Program.

§ 150.11 DEFINITIONS. For purposes of this Section, the following definitions shall apply:

“Rental Unit” shall mean any residential dwelling within the City’s jurisdiction that is rented or leased to tenants for residential purposes on a non-transient basis (when one or more tenants reside on the property or rents or leases the property for thirty consecutive days or longer) and which is owned in whole or in part by an Owner.

“Owner” shall mean any Person who owns one or more Rental Units.

“Person” shall mean any individual or business entity.

“Code Enforcement Authority” shall mean the City of Fairbury Board of Health or the code enforcement officer of the City of Fairbury.

“Certificate of Occupancy” shall mean a permit issued by the City, pursuant to this Ordinance and any regulations promulgated by the Code Enforcement Authority, that permits under this Section an Owner to rent or lease a Rental Unit.

§ 150.12 RULES OF CONSTRUCTION.

This Section shall be liberally construed and applied to promote its underlying purpose, which is to encourage the maintenance and improvement of the quality of rental housing in the City.

§ 150.13 COMPLIANCE.

No Person shall occupy or maintain a Rental Unit unless in accordance with the provisions of this Section.

§ 150.14 SCOPE. This Section shall apply to all Rental Units, but shall not apply to the following:

- (i) facilities administered by the Fairbury Housing Authority;
- (ii) occupancy by the purchaser of a dwelling unit under a contract of sale;
- (iii) transient occupancy in hotel, motel or other similar lodgings;
- (iv) persons who reside in a single-family dwelling unit but who wish to lease to individuals or a family while they are absent from the city for short periods of time, not to exceed one year, and who intend to return to their single-family dwelling unit at the expiration of the lease period;
- (v) persons who occupy the premises and rent to no more than two occupants; *provided that* this does not apply to basements, attics, or garages which are used as habitable spaces

§ 150.15 CERTIFICATE OF OCCUPANCY; REQUIREMENT.

On and after April 1, 2015, no Person may use real estate for the purpose of erecting or maintaining a Rental Unit thereon without having first obtained a Certificate of Occupancy from the office of the Code Enforcement Authority pursuant to this Section.

§ 150.16 CERTIFICATE OF OCCUPANCY; FORM.

The form of the Certificate of Occupancy shall be as determined by regulations promulgated by the Code Enforcement Authority.

§ 150.17 CERTIFICATE OF OCCUPANCY; APPLICATION; DURATION.

Any Owner wishing to rent or lease a Rental Unit must apply for a Certificate of Occupancy for such Rental Unit with the office of the Code Enforcement Authority. The application shall be in a form as determined by the Code Enforcement Authority, and shall require the following information:

- (1) Name of Owner;
- (2) Address of Owner;
 - (3) Street address of Owner;
 - (4) Street address of Rental Unit(s);
 - (5) Brief description of type and number of Rental Unit(s);

(6) Name and address of Owner's agent, if any, authorized to receive notification of complaints, damages, emergencies, substandard conditions or other communications, including service of process. The address of any agent so designated shall be within this State. Any Owner who does not reside in the state of Nebraska shall be required to designate a resident agent.

(7) Certificate of Occupancy fees as established by the Code Enforcement Authority. Such fees are compensation for necessary paperwork and work to inspect Rental Units.

The application shall be signed by the Owner. Whenever ownership of a Rental Unit changes, the new Owner shall complete a new application and must be issued a new Certificate of Occupancy. Notification of the Owner or Owner's agent at the address shown on the application shall constitute sufficient notice pursuant to any provision of this Section. Each Certificate of Occupancy shall be valid for 12 months following its date of issuance. It is a violation of this Section for an Owner to maintain a Rental Unit for which a Certificate of Occupancy has not been issued and is currently valid in accordance with this Section.

§ 150.18 CERTIFICATE OF OCCUPANCY; General Inspection.

In addition to the other requirements of this Section and any regulations promulgated by the Code Enforcement Authority not in conflict with this Section, it shall be a requirement to obtain a Certificate of Occupancy to pass an inspection of the Rental Unit carried out by the office of the Code Enforcement Authority (an "Authority Inspection"), or to provide proof to the Code Enforcement Authority of an Alternate Inspection as provided herein. Such Authority Inspection shall require the Rental Unit to meet the inspection check list promulgated by the Code Enforcement Authority and any other applicable local and state property maintenance provisions included as part of the inspection by the Code Enforcement Authority. Each Authority Inspection shall apply to the Certificate of Occupancy issued for the Rental Unit inspected, and a new Authority Inspection or approved Alternative Inspection shall be required for the issuance of a new Certificate of Occupancy following the expiration of a prior Certificate of Occupancy. Owners shall be notified in writing of any reason for failure of an Authority Inspection and disapproval of a Certificate of Occupancy. For Rental Units that do not pass the Authority Inspection, Owners may request one re-inspection for no additional fee following correction of the issues identified by the Code Enforcement Authority or designated inspector. There shall be no limit to the number of re-inspections authorized per Rental Unit, but there shall be an additional fee as established by the Code Enforcement Authority per re-inspection.

§ 150.19 ALTERNATE INSPECTION.

In lieu of an Authority Inspection, it shall be a requirement to obtain a Certificate of Occupancy to provide the Code Enforcement Authority proof of the Rental Unit passing an inspection, within the past 6 months prior to applying for a Certificate of Occupancy conducted by or at the requirement of another governmental entity possessing authority to conduct or require property inspections, that meets the minimum inspection requirements of the Code Enforcement Authority and that is approved by the Code Enforcement Authority, as determined by regulations promulgated by the Code Enforcement Authority consistent with this Section ("Alternate Inspection"). Each approved Alternate Inspection shall apply to the Certificate of Occupancy issued for the Rental Unit inspected, and a new approved Alternate Inspection or Authority Inspection shall be required for the issuance of a new Certificate of Occupancy following the expiration of a prior Certificate of Occupancy. Owners shall be notified in writing of any reason for disapproval of an Alternate Inspection and disapproval of a Certificate of Occupancy. For Rental Units that do not receive approval for an Alternate Inspection, Owners may request an Authority Inspection as provided herein.

§ 150.20 SPECIAL INSPECTION.

A special inspection may be done at the discretion of the Code Enforcement Authority, upon the written, signed request of any resident of the City, any governmental agency, or the Rental Unit's tenant, the tenant's legal representative, the Owner, or the Owner's agent. A special inspection shall be confined to the defects complained of, if any, by the person requesting the inspection unless the Code Enforcement Authority determines that the condition of the Rental Unit or premises has deteriorated since the last general inspection to such an extent that a complete inspection is required to effectuate the purposes of this Section, in which case a complete new inspection of the entire Rental Unit and premises may be performed. If a complete general inspection is performed, a new Certificate of Occupancy shall be issued upon passage of the general inspection.

§ 150.21 INSPECTION; ENTRY TO PREMISES.

Unless waived by the Owner or tenant, the following procedure shall be used to obtain entry to Rental Units for the purpose of any inspection. The Owner shall be contacted and a date shall be established for inspection. The Owner shall then furnish to the Code Enforcement Authority or designated inspector a current list of tenants in each affected Rental Unit. The Code Enforcement Authority or designated inspector shall then send a letter and a postage-paid self-addressed postcard by regular first class mail to each tenant so reported by the Owner. If there is evidence that the tenant received the letter, but no other response is received from the tenant, consent to enter will be presumed. An official record shall be maintained of all notices. The Owner shall be responsible for granting access for inspection upon presentation of a copy of the official record of notices and responses. If either the tenant or the Owner refuses entry for inspection after proper notification, the Code Enforcement Authority or designated inspector shall not inspect without first obtaining an inspection warrant from a court of competent jurisdiction.

§ 150.22 RETALIATORY EVICTION PROHIBITED.

It shall be a violation of this Section for any Owner or Owner's agent to bring or threaten to bring an action for possession of the Rental Unit for the purpose of retaliating against a tenant for requesting a special inspection as provided for in this section.

§ 150.23 VIOLATION. In addition to any penalty that may be imposed pursuant to § 10.99 of this Code for any violation of the Code, the Code Enforcement Authority may:

- (A) Declare a Rental Unit to be unsafe pursuant to the Property Maintenance Code, or take other action pursuant to that Code.
- (B) Issue an emergency order where immediate action is required to protect the health and safety of the public or of the occupants of the Rental Unit.
- (C) Seek any of the additional remedies which provide for an appropriate action or proceeding at law or in equity against the person responsible for the violation for the purpose of ordering the person to:
 - (1) Restrain, correct or remove the violation or refrain from any further execution of work causing a violation;
 - (2) Restrain or correct the erection, installation, or alteration of such structure;

(3) Require the removal of work in violation, or part thereof erected, construed, installed or altered in violation of, or not in compliance with, the provisions of this Code, or in violation of a plan or specification under which an approval, permit or certificate was issued.

§ 150.24 APPEALS.

Appeals of decisions of the Code Enforcement Authority pursuant to this Section may be had to the City Council, in the same manner as appeals of nuisance declarations pursuant to this Code.

§ 150.25 CIVIL ENFORCEMENT.

Any violation of this Section is hereby declared to be a nuisance under this Code, and as such may be abated in a manner as nuisances are now or may hereafter be abated pursuant to this Code.

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; COSTS; TERM; RENEWAL; CERTIFICATE OF INSURANCE.

(A) 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 council and on file in the office of the Municipal Clerk, together with the payment of a cash deposit, the furnishing of a bond or bonds as required by the City Public Works Department, and providing insurance coverage and a certificate of insurance as required herein, 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.

(B) In order to be granted a permit, an applicant shall provide to the City a certificate of insurance evidencing bodily injury and property damage liability insurance retained by the applicant with a combined single limit of at least one million and 00/100 dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of the applicant, its employees, and agents arising out of or in connection with, or related in any way, directly or indirectly, to the applicant's building moving activities for which a permit is sought hereunder, and shall provide for payment to the City for any and all damages which may occur to any public property, and shall provide for payment for any and all damages which may occur to any private property, whether the damages or injury is inflicted by the applicant or by his or her agents, employees, or workers. The City shall be named as an additional insured on any such policy for purposes of the building moving activities for which a permit is sought hereunder, and such policy shall save and indemnify and keep harmless the City against all liabilities, judgments, costs, and expenses which may in anywise accrue against the City in consequence of the issuance to the applicant of any permit to move any building or other structure, or any part or parts thereof. The applicant shall also agree, as a condition of the application being approved, to pay 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 also that the party will save and indemnify and keep harmless the City against all liabilities, judgments, costs, and expenses which may in anywise accrue against the City in consequence of the issuance to the applicant of any permit to move any building or other structure or any part or parts thereof.

(Am. Ord. 3018, 6-5-12) 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 type of bond or bonds required to be filed, if any as determined by the City Public Works Department, by an applicant for a general permit as building mover shall be as determined by regulations of the Public Works Department, and 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. The bond or bonds, as determined by the Public Works Department, may be conditioned upon, among other things, 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, that the applicant will faithfully perform the work, and that the applicant will in all things strictly comply with the conditions of the general permit and the laws of the municipality relating to building movers. Should the bond or bonds of the applicant, if required, be not approved, the Municipal Clerk shall return the fee paid by the applicant.

(Am. Ords. 2944, 8-15-06; 3018, 6-5-12) 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, 2006 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

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- 151.02 Zoning regulations adopted by reference
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Wellhead Protection Area

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- 151.16 Definitions and interpretations
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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. (Ords. 2680, 3-18-97; 2847, 3-19-02; 3029, 4-2-13)

§ 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. (Ords. 2718, 9-2-97; 3030, 5-21-13)

§ 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. (Ords. 2718, 9-2-97; 2882, 3-16-04; 3030, 5-21-13)

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 waste	500
Cesspool (illegal anywhere)	500

<i>Structure or Activity</i>	<i>Minimum Distance From Public Water Supply (measured in feet)</i>
Chemical or petroleum storage	1,000
Fertilizer and pesticide storage	1,000
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