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**CHAPTER 8 – BUILDING REGULATIONS**

**Article 1 – Building Codes**

**SECTION 8-101: ADOPTION OF CODES**

A. The following building codes: Uniform Building Code, Uniform Mechanical Code, Plumbing Code, National Electrical Code, and the latest additions published hereafter be and hereby are adopted by the City. All construction within the City and its zoning area shall be governed by the provisions of such codes.

B. The 2004 Liquefied Petroleum Gas Code, NFPA 58, is adopted as the official gas installation and maintenance regulations for the City. All amendments to said code shall be adopted as the same are promulgated and adopted by the National Fire Protection Association. (Ord. No. 450, 12/13/05)

**SECTION 8-102: ENFORCEMENT**

Hereafter all city officials shall be governed by the provisions of the above codes and no building permit shall be issued nor construction approved unless such building permit and construction conforms to such codes.

**SECTION 8-103: VIOLATION OF BUILDING CODES**

Any violation of the adopted building codes shall result in the immediate disconnection of all utilities from any building or structure not conforming to code provisions. The erection of any building or structure in violation of such codes shall be a misdemeanor punishable by a fine of not more than \$500.00, with each day's violation a separate offense.

**Article 2 – Moving Buildings**

**SECTION 8-201: REGULATIONS**

A. It shall be unlawful for any person, firm or corporation to move any building or structure within the City without first obtaining a written permit to do so. Application shall be made in writing to the city clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, the number of rooms therein and such other information as the City Council may require. The application shall be accompanied by (1) 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, including the payment of all taxes or special assessments and the payment of the pro rata share of bonded indebtedness of the City, including for school districts therein, pursuant to Nebraska state statutes governing collection of taxes; (2) a photograph accurately depicting the present condition of said building; (3) a termite inspection certificate covering the building and its present location; (4) a detailed plan showing proposed exterior remodeling of the building and future location subsequent to moving; and (5) the

applicant, if other than the owner, shall also furnish good and sufficient evidence of his/her authority to move said building.

B. The city clerk shall refer the said application to the planning administrator for inspection and report to the City Council. Upon approval of the City Council, the city clerk shall then issue the said permit provided that all fees and deposits as set forth below have been paid or provided. The permit issued shall expire six months from its date of issuance. In the event that the building has not been moved within such six-month period, a new application must be made with the city clerk and all of the terms set forth above complied with before issuance of a new permit.

## **SECTION 8-202: FEE AND DEPOSIT**

A. Prior to the granting of any permit, the applicant shall pay to the City a fee in an amount sufficient to reimburse all expenses which the City expects to incur in moving of such building. Such fee shall be based on the city superintendent's estimate of the cost to the City resulting from such move. The applicant shall also provide to the City a good and sufficient corporate surety bond, check or cash in the amount of \$5,000.00 conditioned upon moving said building without doing damage to any private or municipal property. At such time as the building moving has been completed, the city superintendent shall inspect the premises from which the building has been removed and also any municipal or private property which may have been damaged by such move and report to the city clerk the extent of damages, if any. Upon receipt of no damages, the city clerk shall return the \$5,000.00 surety bond, check or cash to the applicant.

B. In the event the basement, foundation or portion thereof is not properly filled, covered, or placed in a clean and sanitary condition or in the event of damage to city or private property as a result of such move, the City Council may apply the money deposited for the purpose of defraying the expense of filling such basement, removing the foundation, performing cleanup work or repairing any damages. If the expense of correcting the hazardous condition is greater than the amount of the deposit, the City Council may recover such excess expense by civil suit or as otherwise prescribed by law. (Am. by Ord. No. 508, 11/10/09)

## **SECTION 8-203: EXEMPTIONS**

No moving permit shall be required to move a building that is 10 feet wide or less and 20 feet long or less and, when in a position to move, 15 feet high or less. Also, no moving permit will be required for mobile homes that are being moved into or out of licensed mobile home parks of the City.

# **Article 3 – Demolition of Buildings**

## **SECTION 8-301: REGULATIONS**

A. It shall be unlawful for any person, partnership, corporation or other legal entity to tear down or demolish any building or structure within the City without first obtaining a written permit to do so. Application shall be made in writing to the city clerk on forms approved by the City Council and provided by the City. Such application form shall include the present location of the building to be torn down or demolished, how it will be torn down or demolished, how materials and debris will be removed from the premises and disposed of, the value of the structure, and such other information as the City Council may require. All property taxes must be current and an asbestos inspection must be performed before the application will be approved. The application shall be accompanied by a photograph accurately depicting the present condition of said building. The applicant, if other than the owner, shall also furnish good and sufficient evidence of his/her authority to tear down or

demolish said building.

B. The city clerk shall refer the application to the city superintendent, who shall review the application and either approve or disapprove the application. If he disapproves the application, he shall set forth specifically the reason(s) for such denial. If approved by the city superintendent, the city clerk shall issue the permit, provided that all fees and deposits as set forth below have been paid or provided for. Tearing down, demolition, removal of debris and filling of excavations shall be completed within six months of issuance of the permit. If not completed within said time, a new permit, fee and deposit (if needed) will be obtained and paid.

(Am. by Ord. No. 542, 8/14/12)

## **SECTION 8-302: FEE AND DEPOSIT**

A. Prior to the granting of any permit, the applicant shall have paid to the City a fee in an amount set from time to time by resolution of the City Council. He/she shall also provide to the City a good and sufficient corporate surety bond, check or cash in an amount set by motion of the City Council and conditioned upon tearing down or demolishing such building without doing damage to any private or municipal property. At such time as the building teardown or demolition has been completed, the city superintendent shall inspect the premises and report to the city clerk as to the extent of damages, if any, resulting from the said demolition and whether any city ordinances or regulations have been violated during the said demolition. Upon a satisfactory report from the city superintendent, the city clerk shall return the corporate surety bond, cash or check deposited by the applicant.

B. In the event the basement, foundation or portion thereof is not properly filled, covered or in a clean and sanitary condition, the City Council may apply the 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 City Council, as required herein, the City Council may recover such excess expense by civil suit or otherwise as prescribed by law.

(Am. by Ord. No. 542, 8/14/12)

## **SECTION 8-303: EXEMPTION**

No permit shall be required to tear down or demolish a building that is 10 feet wide or less and 20 feet long or less.

## **Article 4 – Minimum Lighting and Thermal Efficiency Standards**

### **SECTION 8-401: LIGHTING AND THERMAL EFFICIENCY STANDARDS; NEED**

The City finds that there is a present and continuing need to provide for the development and implementation of minimum lighting and thermal efficiency standards for buildings to ensure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote the conservation of dwindling energy resources and to provide for the public health, safety and welfare.

### **SECTION 8-402: TERMS DEFINED**

As used in this article, unless the context otherwise requires, the following definitions shall apply:

"Addition" shall mean any construction added to an existing building which will increase

the floor area of that building by five percent or more.

"Architect" or "engineer" shall mean any person registered pursuant to Section 81-847, R.R.S. Neb. 1943.

"Building" shall mean any structure which utilizes or will utilize a heating system, cooling system or domestic hot water system, including new or renovated buildings and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot.

"Floor area" shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure that is heated or cooled.

"Prime contractor" shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. Prime contractor shall also mean a property owner who performs the work of a prime contractor.

"Renovation" shall mean alterations on an existing building which will cost more than 50% of the replacement cost of such building at the time work is commenced, or which was not previously heated or cooled for which a heating or cooling system is now proposed, except that the restoration of historic buildings shall not be included.

"Residential building" shall mean a building three stories or less that is used primarily as one or more dwelling units.

"Standard" shall mean Standard 90-75 of the American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc., as it existed on April 23, 1980.

"Traditional energy sources" shall mean electricity, petroleum- based fuels, uranium, coal and all nonrenewable forms of energy.

#### **SECTION 8-403: STANDARD; APPLICABILITY**

The new standard shall apply to:

A. New residential buildings on which construction is initiated on or after April 1, 1981, and

B. All other new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after January 1, 1982.

#### **SECTION 8-404: EXEMPTIONS**

The following shall be exempt from this act:

A. Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area.

B. Any building which is neither heated nor cooled.

C. Any building or portion thereof which is owned by the United States of America.

D. Any mobile home as defined by Neb. Rev. Stat. Section 71-4603.

E. Any manufactured housing unit as defined by Section (1) of Section 71-1557,

F. Any building listed on the National Register of Historic Places.

G. All residential buildings shall be exempt from lighting efficiency standards.

#### **SECTION 8-405: REQUEST FOR ALTERNATIVE BUILDING SYSTEM; APPROVAL**

A. Any person who owns or constructs a building to which this article applies may request that an alternative building system, technique, equipment design or building material be found equivalent to the Standard.

B. The planning administrator shall make such determination if he/she finds that the proposed alternative would not result in energy consumption greater than would result from the strict application of the Standard. If the planning administrator fails to approve or disapprove the request within 60 days from the date of filing, it shall be considered approved.

#### **SECTION 8-406: INSPECTIONS; INVESTIGATIONS**

A. The planning administrator or any person designated by him/her shall conduct inspections and investigations necessary to enforce the Standard and may, at reasonable hours, enter into any building and upon any premises within its jurisdiction for the purpose of examination to determine compliance with this article. Inspections shall be conducted only after permission has been granted by the owner or occupant, or after a warrant has been issued pursuant to Neb. Rev. Stat. Sections 29-830 to 29-835.

B. During construction, the planning administrator or person designated shall make periodic inspections to assure compliance with this article.

#### **SECTION 8-407: BUILDING PLANS; SUBMISSION FOR APPROVAL**

A. Prior to the construction of, renovation of, or addition to any building covered by this article, the prime contractor shall file sufficient plans and specification with the planning administrator to enable him/her to make a determination whether such building will comply with the Standard. The planning administrator shall, within 30 days of the filing, approve or disapprove the plans and specifications. If disapproved, the reasons shall be set forth in writing to the prime contractor.

B. If the planning administrator determines that such construction, renovation or addition will comply with the Standard, he/she shall issue a written permit which the prime contractor shall display in a conspicuous place on the premises where construction work is to be done. No construction, renovation or addition shall commence until a permit is issued and displayed as required by this section.

#### **SECTION 8-408: FEES**

The person filing the application for a permit shall, at the time of such filing, pay to the City the sum of \$25.00 for residential buildings and \$0.01 per gross square foot for any other building.

#### **SECTION 8-409: WHEN ARCHITECT OR ENGINEER IS RETAINED**

If an architect or engineer is retained, he/she shall place his/her state registration seal on all construction drawings, which shall indicate that the design meets the Standard. The prime contractor shall certify that he/she will build in accordance with the construction

documents prepared by the architect or engineer. This certification must accompany the building plans submitted to the chief planning administrator for approval.

#### **SECTION 8-410: VIOLATION; PENALTY; ENFORCEMENT**

Any person violating any provision of this article shall be subject to a maximum sentence of three months imprisonment or \$500.00 fine, or both. In addition, the City may, by an action in the District Court, enforce the provisions of this ordinance through equity and injunctive processes.

#### **SECTION 8-411: VALIDITY**

If any section in this article or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portion thereof.

### **Article 5 – Fence Regulations**

(See diagram at end of article)

#### **SECTION 8-501: DEFINITIONS**

“Back yard” shall mean that portion of the property that is on the opposite end of the front yard.

“Corner lot” shall mean a lot with two street frontages with the front of the house facing one street and the side of the house adjoining the other street.

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

“Front yard” shall mean that portion of the property that is adjacent to a street.

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

“Side yard” shall mean that portion of the property that is between the front and back yards.

"Solid fence" shall mean a fence, including gates, which has more than 50% of the surface area closed.

#### **SECTION 8-502: PERMIT REQUIRED**

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

#### **SECTION 8-503: APPLICATION PROCEDURE; FEE**

A. Written application for a fence permit shall be made upon a form prescribed by the city clerk, shall be signed by the property owner or his/her duly authorized agent or attorney, and shall be accompanied by a fee in the amount set by the City Council by resolution and on file with the city clerk for inspection by the public during normal business

hours.

B. Each application shall designate the address to which notices shall be sent and shall be accompanied by a building plan showing the location of iron pins or other property markers denoting the lot lines.

C. The application shall be accompanied by structural drawings showing the location of the fence on the applicant's property, the height and type of fence, and specification of materials to be used for its construction.

D. The city clerk shall submit such application to the Electrical Superintendent and for their review and recommendations. Any permit issued shall conform to such recommendations. In addition, the applicant shall verify that they have contacted diggers hotline and that the utility lines have been marked prior to construction.

E. Two property owners desiring to build one fence on the common lot line of adjacent side yards or back yards may file one application jointly signed by them as applicants.

#### **SECTION 8-504: APPROVAL OF APPLICATION; TIME LIMIT**

The city clerk is authorized to approve all applications for fence permits which conform to the provisions of this article and to issue permits for the erection and construction thereof. All permits issued hereunder shall be valid for a period of six months from date of issuance; if the fence authorized is not fully erected and constructed within said period, the permit shall be null and void and a new permit must be issued before construction can begin.

#### **SECTION 8-505: LOCATION AND PLACEMENT RESTRICTED**

Except as may be otherwise specifically provided in this article, no fence shall be erected, constructed or maintained on any lot or tract of land outside the surveyed lot lines of the property to which it belongs. No fence shall be constructed which would cause a water or snow problem to an adjacent property. Any fence constructed must be at least 10 feet from such adjacent residence.

#### **SECTION 8-506: TRAFFIC HAZARDS PROHIBITED**

A. No fence shall be erected, constructed or maintained in such a manner as to obstruct the view of drivers of vehicles approaching street intersections or which otherwise creates a traffic safety hazard.

B. Any fence constructed within the front yard of a residential lot may be an open or closed fence not more than 4 feet above the ground and conform to the corner triangle diagram at the end of this article.

C. Setbacks shall be as follows:

1. Front yard setback shall be 1 foot inside of existing sidewalks. Where no sidewalk exists, then the setback shall be at least 4 feet from the property line.
2. Rear yard: Fence must be erected on the property line.
3. Side yard: Fence must be erected on the property line.

D. Front yard fences shall not exceed 4 feet in height.

E. No foliage or shrubbery exceeding 3 feet in height shall be planted or maintained



in such areas which will obstruct the view of drivers approaching the street intersection.  
(Am. Ord. No. 639, 6/14/22)

### **SECTION 8-507: HEIGHT AND MATERIALS PERMITTED; SPECIAL USE PERMIT**

A. Fences shall (A) be constructed of commonly accepted material for residential fences such as wood, plastic, vinyl, PVC/resin, concrete, stone, masonry, wrought iron, or chain link; (B) be structurally sound; and (C) have a neat, professional and finished appearance.

B. Closed fencing to provide for privacy may be constructed to a height not exceeding 8 feet above the ground and provided that no part thereof is situated within the front yard. See fence diagram at the end of this article. Only side and rear yards can have a fence that is 8 feet fence high.

C. Any person desiring a variance from the height and material requirements of this section shall be required to apply for a special use permit to the City Council.

### **SECTION 8-508: CERTAIN MATERIALS AND FENCES PROHIBITED; SPECIAL USE PERMIT**

A. It shall be unlawful for any person to erect, construct or maintain any barbed wire fence except for perimeter security fencing of buildings constructed in industrial districts (the plans and specifications for which require city approval before commencement of construction), and for farm fencing constructed for agricultural purposes in agricultural districts.

B. Except as otherwise provided herein, it shall be unlawful for any person to erect, construct or maintain any fence with a barbed selvage at its top.

C. No electric fence shall be erected, constructed or maintained within the City or within its zoning jurisdiction except in the Agricultural Zone for agricultural purposes.

D. No fence shall be constructed of material not commonly used for residential fences, such as non-treated or natural wood products, fiberglass, barbed wire, wooden pallets, chicken wire or corrugated metals.

E. Any person desiring a variance from the prohibition against use of certain materials and types of fences may apply to the City Council for a special use permit.

### **SECTION 8-509: MAINTENANCE REQUIRED**

All fences existing at the adoption of this article and all fences hereafter erected or constructed shall be maintained in good repair. If a fence is not maintained in good repair, it shall be deemed a nuisance and shall be subject to the procedures and penalties prescribed in the nuisance ordinances of the City.

### **SECTION 8-510: FINISHED SIDE FACING OUTSIDE OF PROPERTY**

The finished side of the fence must face to the outside of the property. Visible supports and other structural components shall face inward toward the subject property.

### **SECTION 8-511: FENCES IN EXISTENCE AT DATE OF ADOPTION HEREOF**

Any existing fence constructed pursuant to a permit issued by the City in conformity with the ordinances in force and effect, which fence is in place as of the date of adoption of this article, may remain without change in accordance with this section notwithstanding

the same may be in conflict or violation with one or more provisions of this or prior ordinances; provided, however, replacement or change of any such existing fence or addition of new fence must meet all requirements of this article.

## **SECTION 8-512: GATES FOR UTILITY ACCESS**

All property owners with an existing fence not complying with this article may be required to provide fence gates to provide access to the property for utility maintenance and repair.

## **SECTION 8-513: ENFORCEMENT**

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

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

B. Should it be determined that any person is replacing, changing or adding to any existing fence in place as of the date of adoption of this ordinance without having obtained a valid fence permit as herein provided or that such existing fence poses a traffic safety hazard or is dangerous and prohibited under the provisions herein, the city clerk shall forthwith notify the Police Department of such violation. The Police Department shall personally deliver or leave a notice of violation at the residence of the offending party or owner, as the case may be. Upon receipt of such notice, the party violating the terms herein shall thereupon cause the offending fence to be removed or shall cease and desist from all further efforts in adding to, replacing or changing such fence until the same conforms to the requirements of this article. Failure to remove such fence or to remedy the violation within 15 days of receipt of notice shall constitute a violation of this article.

C. The city attorney is authorized and empowered to enforce any and all provisions of this article and to initiate or defend suits in courts of competent jurisdiction as may be required to enforce the provisions of this article.

## **SECTION 8-514: DENIAL OF PERMIT; HEARING**

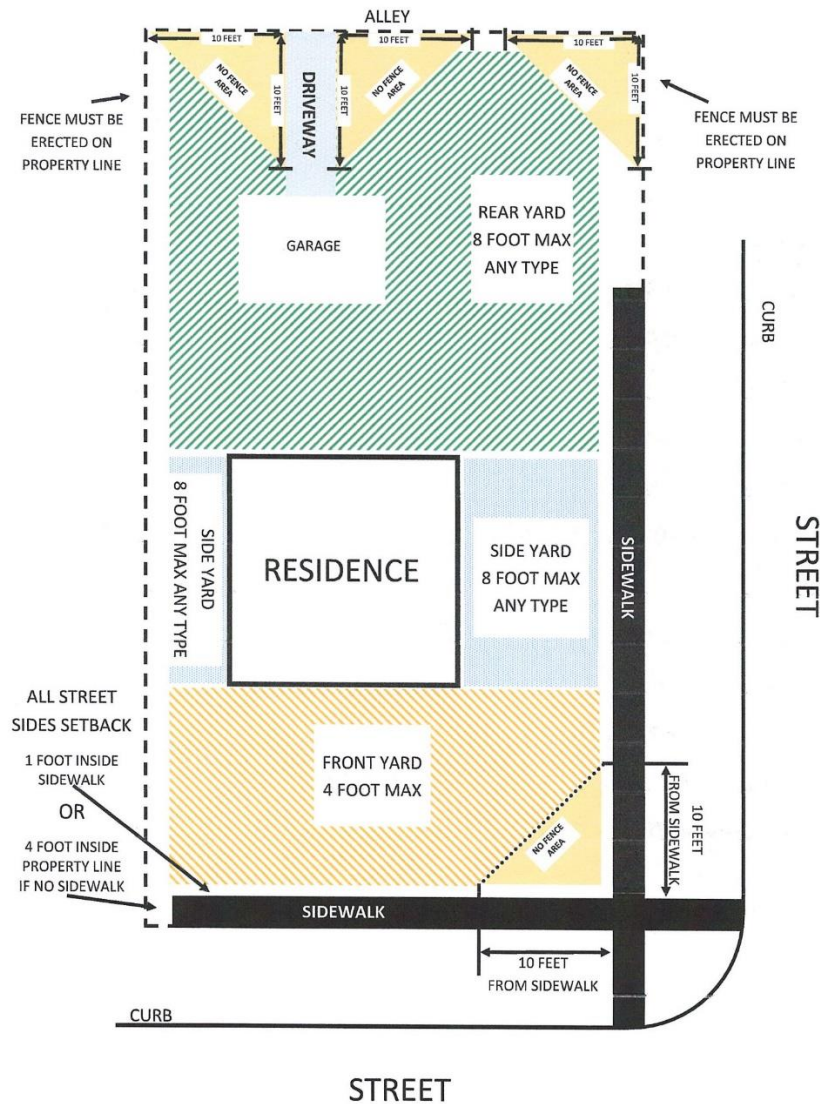
A. In the event that the owner, occupant, lessee, mortgagee, agent or other person has made an application for a fence permit and such permit has been denied, said party may appeal such decision to the Neligh City Council. To make an appeal, said person shall notify the city clerk with a written statement setting forth the reasons for the disagreement or dispute and the relief requested. The written request shall be made within 14 days of mailing of the notice of denial. If written notice is received by the city clerk within 14 days of mailing or delivery of notice, a hearing shall be held before the City Council, either at a special meeting or at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing in writing of the time, place, and date of such hearing.

B. The hearing before the City Council shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his/her own expense, and

not less than three business days before the hearing, the records of the City regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the council of any further procedures before action is taken as set forth in a notice. (Ord. No. 639, 6/14/22)

**SECTION 8-515: APPEAL**

Any person aggrieved by the decision of the City Council may appeal such decision to the District Court of Antelope County, Nebraska. Such appeal shall and must be taken within 30 days of the pronouncement of the council’s decision. (Am. Ord. No. 639, 6/14/22)



**Article 6 – Penal Provision**

**SECTION 8-601: VIOLATION; PENALTY**

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