

BUILDING REGULATIONS

**CHAPTER 9  
BUILDING REGULATIONS**

**ARTICLE 1. BUILDING CODE AND BUILDING OFFICIAL.**

**§9-101 BUILDING CODE; ADOPTED BY REFERENCE.**

To provide for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; the *International Building Code*, 2012 edition, (see *International Building Code* Section 101.2.1, 2012 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of the Municipality of Eagle, Nebraska and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the Municipal Clerk of the Village of Eagle are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed as follows:

Section 101.1. Insert: Village of Eagle

Section 1612.3. Insert: Village of Eagle

Section 1612.3. Insert: the most currently dated and issued map applicable under this section.

Section 3412.2. Insert: June 20, 2016

(Effective date: July 5, 2016, Ordinance 2016-05)

**§9-102 BUILDING CODE BOARD OF APPEALS.**

The following Board of Appeals provisions shall apply to all International Code Sections adopted by reference by inclusion in the International Building Code provisions or other International Codes specifically adopted:

**BOARD OF APPEALS**

1. Creation. The Governing Board has the authority to create a board of appeals consisting of five members that shall be known as the Building Code Board of Appeals. In the event no Board of Appeals is appointed, the Governing Board shall serve as the Board of Appeals. If the Governing Body does appoint a Board, then Membership on the Building Code Board of Appeals shall consist of the following:

- (1) The Building Official (ex officio member);
- (2) A general building contractor;
- (3) A plumbing contractor;
- (4) A member of the Eagle Volunteer Fire Department;

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(5) One other person qualified to sit on this board by way of experience with building construction, contracting, real estate or fire safety.

All members of the Board, except the Building Official, shall be appointed by the Municipal Governing Board. Two members of the initial board shall be appointed for terms of one year, one member for a term of two years, and one member for a term of three years. Thereafter, all members, except the Building Official, shall be appointed for terms of three years each. Vacancies on the board shall be filled by appointment for the unexpired term only. The Building Official shall be the permanent secretary of the board and shall keep a record of all meetings.

2. Authority and Duties. The Building Code Board of Appeals shall hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code or the suitability of alternate materials and methods of installation. The Board of Appeals shall have no authority relative to the interpretation of the administrative provisions of this code.

The Board of Appeals may grant variances for alterations or repairs of an existing building or structure after finding that:

(1) There are practical difficulties involved in carrying out the provisions of this code.

(2) The requested variance is in conformance with the intent and purpose of this code; and

(3) The variance does not substantially lessen any fire-protection requirements or any degree of structural integrity.

The Board of Appeals shall make recommendations to the Governing Body upon request of the Governing Body. The Board of Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and recommendations in writing to the Governing Body.

3. Meetings. The Building Code Board of Appeals shall meet at the call of the Building Official or upon a written request signed by two or more of its members and filed with the secretary.

4. Appeals to Board. Any person who is aggrieved by any decisions of the Building Official relating to suitability of alternate materials, methods of construction, or interpretations of any provisions of this code, and any person who seeks a variance from the strict application of this code for the alteration or repair of existing buildings whenever there are practical difficulties involved in carrying out the provisions of this code, may appeal such decision by filing an appeal on forms furnished by the Building Official within thirty days from the date of such decision. The filing of a completed appeals form, along with the payment

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of the prescribed fee, shall be sufficient for the purpose of commencing an appeal proceeding hereunder:

(1) A \$25.00 fee for review of a decision of the Building Official interpreting a provision or provisions of this code;

(2) A \$50.00 fee for review of a decision of the Building Official concerning the suitability of alternate materials or types of installation.

5. Hearing Date. The Building Official shall refer all properly and timely filed appeals to the Building Code Board of Appeals for hearing. The Municipal Clerk shall in each appeal notify the appellant in writing of the date, time and place of hearing before the board, which date shall be no later than thirty days from the filing of the appeal.

6. Hearing Procedure. Hearings on appeal need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation. Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which may make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. Irrelevant and unduly repetitious evidence shall be excluded.

The appellant, the Building Official, and any other party to an appeal hereunder shall have these rights, among others:

(1) To call and examine witnesses on any matter relevant to the issues of the hearing;

(2) To introduce documentary and physical evidence;

(3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing, and

(4) To rebut the evidence against him, her, or it.

7. Decision of Board. The Building Code Board of Appeals shall then, within a reasonable time after the hearing, render a written decision which shall state its findings and conclusions.

Enforcement. Enforcement of any decision, notice, or order of the Building Official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed, except in cases of emergency, where enforcement of the same is necessary for the protection of life, limb, or property. (*Effective date: July 5, 2016, Ordinance 2016-05*)

### **§9-103 BUILDING OFFICIAL; POWER AND AUTHORITY.**

The Building Official shall be the Municipal official who shall have the duty of enforcing all building and housing regulations as herein prescribed, and shall

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have those duties and powers set forth in the currently adopted version of the Building Codes adopted by the Municipality.

### **§9-104 BUILDING OFFICIAL; 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 such 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 said persons to erect such guards shall constitute a violation of this Section and the Building Official shall stop all work until guards are erected and maintained as required.

### **§9-105 BUILDING CODE; TOPOGRAPHICAL CHANGES.**

Any person desiring to change the topography of real estate within the corporate limits of the Municipality shall present a plat of the property affected together with adjacent properties within two hundred (200') feet of the property on which the topography change is to be made to the Governing Body prior to commencing such work. Such plat shall show present elevation lines in three-foot (3') intervals for all property appearing on such plat. Additionally, such plat shall show the new elevations to be proposed and shall identify the slopes and grades created by such change. No such topographical changes shall be made until and unless approved by the Governing Body. No topographical change shall be approved if it results in a change in the direction or volume of storm water runoff leaving the property, unless when the plat is submitted there is appended thereto an approval of all property owners who may be affected by such change in runoff leaving the property. The decision of the Municipal Engineer as to whether runoff from storm water leaving the property is changed by the proposed topographical change. The Municipal Engineer shall consider the distance of the topographical change from the property line together with the proposed slope of land and the water retention properties of the property involved in reaching his conclusion.

### **§9-106 WORK EXEMPT FROM PERMIT.**

Pursuant to the IBC 2012, a Building Permit shall not be required for the conditions set forth in section 105.2 of the IBC 2012 and additionally, said section shall be amended to include the following additional exemptions:

1. Fences less than 6 feet 4 inches high.
2. Temporary Pools which are removed seasonally and occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons (18 927 L).
3. Re-roofing.
4. Replacement of windows and/or doors with new units, matching sizes and functions of existing windows.
5. Re-siding.
6. Replacing current sidewalk.

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7. Minor modifications or repairs, which do not affect structural integrity or life-safety elements.
8. Decks which are:
  - Under 30" above grade
  - AND not attached to any other structures.

Unless otherwise exempted, separate plumbing, electrical, and mechanical permits will be required for the above exempted items.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. (Effective date: July 5, 2016, Ordinance 2016-05)

### **§9-107 EXISTING BUILDING CODE; ADOPTED BY REFERENCE**

To provide for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; the 2012 edition of the *International Existing Building Code*, as published by the International Code Council, be and is hereby adopted as the Existing Building Code of the Municipality of Eagle, Nebraska and each and all of the regulations, provisions, penalties, conditions and terms of said Code on file in the office of the Municipal Clerk of the Village of Eagle are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, as follows:

Section 101.1 Insert: Municipality of Eagle, Nebraska

Section 1401.2 Insert: June 20, 2016

(Effective date: July 5, 2016, Ordinance 2016-05)

### **§9-108 FUEL GAS CODE; ADOPTED BY REFERENCE**

To provide for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; the 2012 edition of the *International Fuel Gas Code*, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the Municipality of Eagle, Nebraska and each and all of the regulations, provisions, penalties, conditions and terms of said Code on file in the office of the Municipal Clerk of the Village of Eagle are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, as follows

Section 101.1. Insert: Municipality of Eagle, Nebraska

Section 106.6.2. Insert: Building Permit Fee Schedule as set forth in Chapter 9, Article 7

Section 106.6.3. Insert: 85%; 85%

Section 108.4. Insert: Misdemeanor; \$500; 0 days

Section 108.5. Insert: \$100; \$500.

(Effective date: July 5, 2016, Ordinance 2016-05)

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### ARTICLE 2. PROPERTY MAINTENANCE CODE

#### §9-201 PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE.

To provide for the regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor the 2012 edition of the *International Property Maintenance Code*, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Municipality of Eagle, Nebraska and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Municipal Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes as follows:

Section 101.1. Insert: Municipality of Eagle, Nebraska

Section 103.5. Insert: Building Permit Fee Schedule as set forth in Chapter 9, Article 7

Section 112.4: Insert: \$100, \$500.

Section 302.4: Deleted.

Section 304.14. Insert: May 1, November 1.

Section 602.3. Insert: September 1, May 1.

Section 602.4. Insert: September 1, May 1.

(Effective date: July 5, 2016, Ordinance 2016-05)

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### ARTICLE 3. PLUMBING CODE

#### **§9-301 PLUMBING CODE; INTERNATIONAL PLUMBING CODE; ADOPTED BY REFERENCE.**

To provide for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; the *International Plumbing Code*, 2012 edition, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the Municipality of Eagle, Nebraska and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of Municipal Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes as follows:

Section 101.1. Insert: Municipality of Eagle, Nebraska

Section 106.6.2. Insert: Building Permit Fee Schedule as set forth in Chapter 9, Article 7

Section 106.6.3. Insert: 85%, 85%

Section 108.4. Insert: Misdemeanor, \$500, 0 days.

Section 108.5. Insert: \$100, \$500.

Section 305.6.1. Substitute and Insert: Building sewers that connect to private sewage disposal systems shall conform to Nebraska Department of Environmental Quality, Title 124, relative to minimum depth below finished grade

Section 904.1. Insert: 10, 10.

(Effective date: July 5, 2016, Ordinance 2016-05)

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### ARTICLE 4. RESIDENTIAL CODE

#### **§9-401: INTERNATIONAL RESIDENTIAL CODE; ADOPTED BY REFERENCE.**

To provide for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress in the Municipality; providing for the issuance of permits and collection of fees therefor; the 2012 edition of the *International Residential Code*, as published by the International Code Council, be and is hereby adopted as the Residential Code of the Municipality of Eagle, Nebraska; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the Municipal Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes as follows:

Section R101.1. Insert: Municipality of Eagle, Nebraska

Table R301.2 (1) Insert: Ground Snow Load: 25; Wind Speed: 90; Seismic Design Category: B; Weathering: Severe; Front line depth: 36"; Termite: Mod-Heavy; Decay: Slight – Moderate; Winter Design Temp:0 Degree F; Ice Shield Underlayment: Yes; Air Freezing Index: 1500; Mean Annual Temp 50 Degree F.

Section R313. Deleted. Automatic Fire Sprinkler Systems

Section P2603.6.1 Substitute and Insert: Building sewers that connect to private sewage disposal systems shall conform to Nebraska Department of Environmental Quality, Title 124, relative to minimum depth below finished grade.

(Effective date: July 5, 2016 Ordinance 2016-05)



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### ARTICLE 5. MECHANICAL CODE

#### **§9-501 MECHANICAL CODE; INTERNATIONAL MECHANICAL CODE ADOPTED BY REFERENCE.**

To provide for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor, the 2012 edition of the International Mechanical Code, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of Eagle, Nebraska; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the Municipal Clerk are hereby referred to, adopted, and made a part thereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes as follows.

Section 101.1. Insert: Municipality of Eagle, Nebraska

Section 106.5.2. Insert: Building Permit Fee Schedule as set forth in Chapter 9, Article 7

Section 106.5.3. Insert: 85%, 85%.

Section 108.4. Insert: Misdemeanor, \$500, 0 days.

Section 108.5. Insert: \$100, \$500.

(Effective date: July 5, 2016, Ordinance 2016-05)

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### ARTICLE 6. PRIVATE SEWAGE DISPOSAL

#### **§9-601. NO PRIVATE SEWAGE DISPOSAL PERMITTED WITHIN CORPORATE LIMITS; INTERNATIONAL PRIVATE SEWAGE DISPOSAL CODE; ADOPTED BY REFERENCE TO APPLY TO THE REMAINDER OF ZONING JURISDICTION.**

A. No private sewage disposal system is permitted within the Corporate Limits of the Municipality.

B. In areas within the zoning jurisdiction of the Municipality, but outside of the Corporate Limits, to provide for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of individual sewage disposal systems, providing for the issuance of permits and collection of fees therefor the 2012 edition of the *International Private Sewage Disposal Code*, as published by the International Code Council, be and is hereby adopted as the Private Waste Disposal Code of Eagle, Nebraska; and each and all of the regulations, provisions, penalties, conditions and terms of said Code on file in the office of the Municipal Clerk are hereby referred to, adopted, and made a part thereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes as follows.

Section 101.1. Insert: Municipality of Eagle, Nebraska

Section 106.4.2. Insert: Building Permit Fee Schedule as set forth in Chapter 9, Article 7

Section 106.4.3. Insert: 85%, 85%

Section 108.4. Insert: Misdemeanor; \$500; 0 days

Section 108.5. Insert: \$100, \$500

Chapter 4: Deleted, subject matter is under authority of the Nebraska Department of Environmental Quality.

(Effective date: July 5, 2016, Ordinance 2016-05)

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**ARTICLE 7. BUILDING PERMITS**

**§9-701 BUILDING PERMITS.**

The provisions for Building Permits, other than what is set forth specifically in this Chapter, shall be set forth the applicable International Codes adopted by reference in Chapter 9. The provisions of the Codes and other regulations adopted in Chapter 9 shall be controlling throughout the municipality and its zoning jurisdiction.

**§9-702 BUILDING PERMITS; TOPOGRAPHICAL.**

In the event proposed construction for which a Building Permit is required under this Article will result in topographical changes on the Property upon which the construction is to take place, a plat as required under Eagle Municipal Code §9-105 shall be submitted with the Building Permit application. In the event the topographical change proposed is not approved, the Building Permit for which the topographical change is requested shall not be issued.

**§9-703 BUILDING PERMITS; APPEAL.**

Appeals from the determination of the Governing Body to reject a building permit application shall be taken pursuant to the provisions provided for in Chapter 9, Article 1, BUILDING CODE BOARD OF APPEALS.

**§9-704 BUILDING PERMITS; FEES.**

Before issuing any permit for the building of any new building or for the alteration or remodeling of any building, there shall be charged the owner of the real estate upon which said alteration, remodeling, moving, relocating, or building is taking place, a permit fee which shall be as follows

A.

Construction Cost	Base	for each Thousand
\$500 or Less	\$23.50	\$0
\$501 to \$2000	\$23.50	\$3.05 over \$500
\$2001 to \$25,000	\$69.25	\$14.00 over \$2,000
\$25,001 to \$50,000	\$391.25	\$10.10 over \$25,000
\$50,001 to \$100,000	\$634.75	\$7.00 over \$50,000
\$100,001 to \$500,000	\$993.75	\$5.60 over \$100,000
\$500,001 to \$1,000,000	\$3233.75	\$4.00 over \$500,000
Over \$1,000,000	\$5608.75	\$3.15 over \$1,000,000

The Permit Fee shall be calculated as follows:

The Base Fee for a given Construction Cost plus the scheduled amount for each thousand dollars over the bottom of the range.

For Example:

For a construction cost of \$139,579, the formula would be as follows:

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\$993.75 (Base) added to 40 (\$39,579, rounded to \$40,000, divided by 1,000) X \$5.60 (\$224) = \$1,217.75

Note:

- ALL CONSTRUCTION COSTS OVER \$2000 SHALL BE ROUNDED UP TO THE NEXT \$1000
- THE CONSTRUCTION COST SHALL INCLUDE: ALL ELECTRICAL, PLUMBING, HVAC, PAVING, AND OTHER WORK RELATED TO THE VALUE OF THE IMPROVEMENT. LOT VALUES SHALL NOT BE INCLUDED AS PART OF THE CONSTRUCTION COST.

- B. The Zoning Code Official shall authorize the refunding of fees as follows:
1. The full amount of any fee paid hereunder that was erroneously paid or collected.
  2. Not more than 85% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
  3. Not more than 50% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.
- C. All building permits as set forth in this Article must be applied for and obtained before construction of any work is begun upon the building or remodeling. If construction or work is begun prior to obtaining the permit, the Municipality shall charge and collect double the amount of the fee, plus any costs related to investigation and legal action.

### **§9-705 BUILDING PERMITS; MOVING MOBILE HOMES.**

Before any mobile home is moved within the Municipality, a permit allowing such movement shall be obtained. The fee for such permit shall be the sum of fifty dollars (\$50.00). Said permit shall be obtained from the Building Official.

### **§9-706 BUILDING PERMITS; DEMOLITION, UTILITY DISCONNECTION.**

All water and sanitary sewer services shall be disconnected and sealed by the owner of the premises served by such service at the main at the owner's expense and said disconnects shall be inspected and approved by the Utilities Superintendent. Such disconnection shall be accomplished subject to any regulations adopted by the Governing Body pertaining thereto. All necessary excavations in streets, alleys, or sidewalks for the purpose of such disconnections shall be made in conformance with § 3-105 of this Code. Also such demolitions require two (2) inspections by the Utilities Superintendent. The first (1<sup>st</sup>) inspection shall be made when the utilities are abandoned to make

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certain that they are properly sealed and watertight which inspection shall be made before the pipes are covered. The second (2<sup>nd</sup>) inspection shall be made after the dirt work is completed. It is the customer's responsibility to notify the Superintendent at the time the work is ready for each inspection. All disconnection of utilities shall be done under the supervision of the Utilities Superintendent and strictly in accordance with the rules, regulations and specifications adopted by the Governing Body. The disconnection and abandonment of the service shall include, but not be limited to, the proper removal of meter vaults, stop boxes and valve boxes. In the event of the failure of the property owner of the premises to comply with the foregoing provision, the Utilities Superintendent shall have authority to make such abandonment and charge the same against the property served by such service. There is hereby established, in addition to the above-described expenses, a utilities demolition fee of One Hundred Fifty Dollars (\$150.00) per dwelling unit. Said fee shall be required to be paid in full prior to the disconnection of utilities services. The term "dwelling unit" as used in this Section shall have the same meaning as that term is defined in the Eagle Zoning and Subdivision Regulations, as they may be amended from time to time.

### **§9-707 BUILDING PERMITS; MOVING STRUCTURES.**

- (1) It shall be unlawful for any person, firm, or corporation to move any building or structure within the city or its extraterritorial jurisdiction boundaries without written permission to do so. Application may be made to the Municipal Clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer showing that all real property taxes are current on the parcel of real estate upon which the building is presently located (if located within the Municipality's jurisdiction set forth above.)
- (2) Upon approval of the Governing Body, the Clerk shall then issue the permit, provided that a permit fee, as set by resolution and to be used to pay for the building inspector's fee for services required herein, and a good and sufficient corporate surety bond, certified funds check or cash in an amount set by the Governing Body and conditioned upon moving the building without doing damage to any private or public property, including filling, covering or leaving the basement, foundation or portion thereof in a clean and sanitary condition, is filed with the Clerk prior to the granting of any permit. In the event it will be necessary for any licensed building mover to interfere with the telephone, cable or electrical wire, a gas line, the company or companies owning, using or operating the poles, wires or lines shall upon proper notice of at least 24 hours, be present and assist by disconnecting the poles, wires or line relative to the moving operation. All expense of the disconnection, removal or related work shall be paid in advance by the applicant. Whenever the moving of any building

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necessitates interference with the water main, sewer main, pipes or wire belonging to the Municipality, notice in writing of the time and route of the building moving operation shall be given to the various Municipal departments who shall proceed on behalf of the Municipality at the expense of the mover to make such disconnections and do such work as is necessary.

- (3) No building shall be permitted to be placed upon the property without a properly permitted foundation or footings as provided by the currently adopted building code without express written consent by the Governing Body. The placement of a structure on property without a permit is subject to recourse by the Governing Body by all legal means, including but not limited to the penalty section of this chapter. This section shall not apply to buildings which are exempt from Building Permit elsewhere in this Code.
- (4) At such time as the building moving has been completed, the building official shall inspect the premises and report to the Municipal Clerk to the extent of damages, if any, resulting from the relocation and whether any Municipal laws have been violated during the operation. Upon a satisfactory report from the Building Official, the Clerk shall return the corporate surety bond, cash, or check provided/deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered or in a clean and sanitary condition, the Governing Body may apply the money deposited or place a claim on the bond for the purpose of defraying the expense of correcting the conditions. If the expense of correcting the condition is greater than the amount of the deposit, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

*(Ref. 77-1725.01 RS Neb) (Added Ord 2015-2 4/7/15)*

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### ARTICLE 8. UNSAFE BUILDINGS

#### §9-801 UNSAFE BUILDINGS; SPECIAL ASSESSMENTS.

If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the Municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the Municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Governing Body. The Governing Body may (1) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or (2) collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction. (*Ref. 18-1720, 18-1722, 18-1722.01, 77-1725 RS Neb.*)

#### §9-802: UNSAFE BUILDINGS; DEFINITION.

The term "unsafe building" as used in this Article is hereby defined to mean and include any building, shed, fence, or other manmade structure (a) which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures; (b) which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; (c) which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the Municipality is hereby declared to be a nuisance. Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures:

- A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;
- B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;
- C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
- D. Those damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the Municipality;
- E. Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

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F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the Municipality because of their condition;

J. Those having been inspected by the County Health Department or a professional engineer appointed by the Municipality which are, after inspection, deemed to be in violation of any provision of the Health Department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of Municipal ordinances, including but not limited to the building code, property maintenance code or residential code adopted by the Municipality. *(Added Ord 2015-2 4/7/15)*

### **§ 9-803: UNSAFE BUILDINGS; BUILDING INSPECTOR.**

A specially designated building inspector, the regularly appointed building inspector, his/her authorized representatives, or a professional engineer shall, at the direction of the Governing Body:

A. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the Municipality for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the Governing Body the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure. *(Added Ord 2015-2 4/7/15)*

### **§9-804: UNSAFE BUILDINGS; STANDARDS.**

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:



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A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this Municipality, or state statute, it shall be demolished. (*Added Ord 2015-2 4/7/15*)

### **§9-805: UNSAFE BUILDINGS; SPECIAL ASSESSMENTS.**

If any owner of any building or structure fails, neglects or refuses to comply with notice by or on behalf of the Municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the Municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Municipal Board. The costs and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done and request for payment is sent by First Class Mail (envelope conspicuously marked for its importance) , the Governing Body may (1) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or (2) collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

*Source: Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01, 77-1725.01 (Added Ord 2015-2 4/7/15)*

### **§9-806: UNSAFE BUILDINGS; PROHIBITION.**

It shall be unlawful to maintain or permit the existence of any unsafe building in the Municipality or within its zoning jurisdiction and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition. *Source: Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01 (Added Ord 2015-2 4/7/15)*

### **§9-807: UNSAFE BUILDINGS; DETERMINATION AND NOTICE.**

(1) Whenever the Building Inspector, the Fire Official, appointed engineer or the Board of Health shall be of the opinion that any building or structure in the Municipality or within the zoning jurisdiction, is an unsafe building, he/she/it shall file a written statement to this effect with the Municipal Clerk. The Clerk shall thereupon cause the property to be posted accordingly, and shall file a copy of

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such determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Municipality or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated or removed.

(2) Such notice shall state that the building has been declared to be in an unsafe condition; and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied within sixty (60) days from the date of receipt. Such notice may be in the following terms:

"To (owner &/or occupant of premises) of the premise known and described as \_\_\_\_\_:

"You are hereby notified that \_\_\_\_\_ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by \_\_\_\_\_. The causes for this decision are \_\_\_\_\_ (here insert the facts as to each dangerous condition).

"You must remove, remedy or alter by repair, or demolish the building within sixty (60) days from the date of receipt of this notice or the Municipality will proceed to do so. Appeal of this determination may be made to the hearing officer appointed by the Governing Body, by filing with the Municipal Clerk within five (5) days from the date of receipt of this notice a request for a hearing. In the event the Municipality has the work done, the Municipality may levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited or recover the same in a civil action as provided by law."

(3) If the person receiving the notice has not complied therewith within sixty (60) days from the date of receipt of such notice (or date of posting/publication), or taken an appeal from the determination of the hearing officer that a dangerous building exists within five (5) days from the time when this notice is served upon such person as provided above, the Governing Body may proceed to remedy the condition or demolish the unsafe building as set forth further in this chapter. Source: Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01 (Added Ord 2015-2 4/7/15)

### **§9-808: UNSAFE BUILDINGS; HEARING AND APPEAL.**

Upon receiving the notice to repair or demolish the building, the owner, and occupant thereof, if any, of the building, within the time stipulated, may in writing to the Municipality Clerk appeal said notice and request a hearing. A hearing on the appeal shall be held within fourteen (14) days after the filing of the appeal and shall be conducted by a hearing officer appointed by the Governing Body. Said person shall sit as a hearing officer and shall render a decision on the appeal within five (5) business days after the conclusion of the hearing and the decision shall be sent to the property owner by certified mail or personal service.

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If an appeal is not filed and compliance has not been met within sixty days as indicated in the Notice, or, in the case a hearing was requested, if the hearing officer rejects the appeal, the owner shall have sixty (60) days from the sending of the decision, or personal service of the decision, to complete the demolition and removal. If after the sixty (60) day period the owner has not completed the work, the Governing Body shall proceed to cause such work to be done, provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the Governing Body shall be stayed. Where the Municipality has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply. Source: Neb. Rev. Stat. §§ 18-1720, 18-1722, 18-1722.01, 77-1725.01) (*Added Ord 2015-2 4/7/15*)

### **§9-809: UNSAFE BUILDINGS: EMERGENCY.**

Where any unsafe building or structure poses an imminent danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the Municipality to do so, the Municipality may summarily repair or demolish and remove such building or structure. Source: Neb. Rev. Stat. §§18-1720, 18-1722, 18-1722.01 (*Added Ord 2015-2 4/7/15*)

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### **ARTICLE 9. PUBLIC LIABILITY INSURANCE COVERAGE**

#### **§9-901 CERTIFICATE OF INSURANCE.**

Whenever a contractor performs any work requiring the issuance of a permit under the provisions of this Code, such contractor shall be required to:

(a) At all times maintain public liability insurance coverage for all claims arising out of all work in the Municipality and within one mile of the corporate limits thereof done by or under the supervision of the contractor under the provisions of this Code. Such insurance shall be in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the Municipal Attorney, with a minimum combined single limit of \$500,000 aggregate for any one occurrence on any job which a permit is required under this Code, provided the Municipality shall be named an additional insured thereunder. The coverages required herein shall be subject to review and approval by the Municipal Attorney for conformance with the provisions of the section.

(b) At all times keep on file with the Municipal Clerk a current Certificate of Insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the Municipal Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the Municipality as an additional insured for the coverage required by subsection (a) of this Article, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring 30 days notice by mail to the Municipal Clerk before the insurer may cancel the policy for any reason, and upon request of the Municipal Clerk or the Municipal Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Expiration or cancellation of any insurance coverage required by this Article shall constitute an automatic and immediate termination of the contractor's privilege to perform work pursuant to issued permits under the provisions of this Code, unless other insurance meeting the requirements of this Article is provided and in full force and effect at the time of such expiration or cancellation.

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### ARTICLE 10. PENAL PROVISION

#### §9-1001 PENAL PROVISION.

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, use, occupy, or maintain any building or structure in the Municipality, or cause the same to be done contrary to or in violation of any of the provisions of this Chapter.

**Section 1: FINE:** In addition to any fees and fines set forth elsewhere in this Chapter, any person, firm, or corporation who shall violate any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not to exceed \$500.00. Each day that a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

**Section 2: ABATEMENT OF NUISANCE.** Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 18-1720, 18-1722 RS Neb.*)