SUPPLEMENT
INSERTION GUIDE
LINCOLN MUNICIPAL CODE

June 2015

(Covering Ordinances through No. 20197)

This supplement consists of reprinted pages replacing pages in the Lincoln Municipal Code.

Remove pages listed in the column headed "Remove Old Pages" and in their places insert the pages listed in the column headed "Insert New Pages."

This Insertion Guide should be retained as a permanent record of pages supplemented and should be inserted in the front of this code.

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Through usage and supplementation of the Lincoln Municipal Code on a page-for-page substitution basis, it is possible that pages can be inserted and removed in error.

The following list is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page. A similar list will be published with each succeeding Supplement.

In the first column all page numbers are listed in sequence. The second column reflects the date of the latest printing of the page as it should appear in an up-to-date volume. The letters "OC" indicate the page has not been reprinted in a supplement and appears as published for the original Code. When a page has been reprinted or added through the supplement service, this column reflects the supplement date printed on the bottom of the page.

After checking your book, you may want to order missing pages in order to bring your book up to date. These may be ordered from the City Law Department, 555 South 10th Street, Lincoln, NE 68508. Please enclose a list of the pages you need, together with 25¢ for each page (50¢ for each two-sided page) requested.

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Chapter 2.04

CITY COUNCIL

Sections:

2.04.010 Rules of the Council.
2.04.030 Vote Required.
2.04.040 Audible Devices Prohibited.
2.04.050 Meetings; Closed Sessions.

2.04.010 Rules of the Council.

The City Council shall be governed by the following rules related to its organization, election of its officers, duties of its chair, procedure, decorum and debate. The rules for parliamentary procedure comprised in Robert's Rules of Order, Newly Revised, as updated from time to time, shall govern the City Council in all cases where they are applicable, and when they are not otherwise inconsistent with the standing rules of the Council hereinafter set forth in this section.

ORGANIZATION OF THE COUNCIL

Rule 1-1. Regular Meetings. On the second Monday following each general city election, the Council shall meet for the purpose of administering the oath of office to its new members, electing its officers, and carrying out its assigned duties. Thereafter, the Council shall hold one regular meeting on Monday of each week, except the Council may choose not to meet during weeks containing a federal or state holiday, or as otherwise allowed by state law. Each meeting shall convene at the time and place prescribed by public notice posted by the City Clerk.

Rule 1-2. Special Meetings. Special meetings of the Council as provided by the Charter may be called from time to time by the Mayor or any two members of the Council. The time and place of any special meeting shall be communicated to the office of the City Clerk at least twenty-four hours prior to such meeting. The City Clerk shall immediately thereafter post public notice of such special meeting on the official bulletin board.

Rule 1-3. Council Policy Meetings and Briefing Sessions. Council policy meetings and briefing sessions may be called from time to time by the Mayor, the Council Chair, or any two members of the Council. Notice of the time and place of any Council policy meeting or briefing session shall be made available to the public at least twenty-four hours in advance, in a manner designated by the Council. Such meetings shall be open to the public unless closed as hereinafter provided. No member of the public shall be entitled to address the Council at such meetings except by invitation of the Council. Those rules of Council decorum, debate, and procedure hereinafter set forth as Rules 3-1 through 3-32, inclusive, shall not be enforced at such meetings or briefing sessions. The Chair shall preside over all meetings or briefing sessions and be responsible for assuring that discussion and questioning by Council members is conducted in a fair and orderly manner, within the time set aside therefor.

Rule 1-4. Chair and Vice-Chair; When Elected; Terms; and Removal from Office. The election of a Chair and Vice-Chair shall be held on the second Monday following each general city election or, during years without a general city election, at any regular meeting of the Council in May or a date chosen by the Council. The Chair and Vice-Chair shall both serve for terms of one year, or until successors are chosen, provided that either or both the Chair and Vice-Chair may be re-elected for as many consecutive annual terms as the Council may deem appropriate; and provided, further, the Chair or Vice-Chair may be removed from office at any time upon a motion adopted by a vote of at least four members of the Council.

Rule 1-5. Procedure for Electing a Chair.

(a) The meeting shall be called to order by the Mayor who shall act as temporary Chair without a vote for the purpose of receiving nominations from members of the Council for the office of Chair. Any member of the Council may submit the name of one member of the Council as a nominee for the office of Chair. Recognition by the Mayor is not necessary for the purpose of making a nomination. No second shall be necessary. After a nomination is received, the Mayor shall state the name of the nominee and shall then ask if there are any further nominations. If there is no response, the Mayor shall declare that the nominations for the office of Chair are closed without waiting for a motion to that effect. After nominations have been closed, voting for the office of Chair will take place by roll call vote. On each call of the roll to elect a Chair, each member of the Council shall be entitled to vote for one nominee. The nominee who receives four or more votes shall be elected Chair. The Clerk shall call the roll and record the vote as many times as is necessary to elect a Chair. The

Mayor acting as temporary Chair shall recognize any member of the Council desiring to be heard at the conclusion of any roll call vote when no nominee has received a sufficient number of votes to be elected Chair, and may entertain a motion to reopen nominations. Upon the election of a Chair, the Mayor shall forthwith surrender the gavel to the newly elected Chair.

(b) When electing a Chair during times other than the second Monday following a general city election, the currently serving Chair or the Mayor shall conduct the election of the new Chair in the same manner as the Mayor in subparagraph (a) of this rule.

(c) If only one person has been nominated for the office of Chair, yeas and nays may be cast during the roll call vote instead of the name of the nominee.

Rule 1-6. Procedure for Electing a Vice-Chair. The Chair shall call for nominations for the office of Vice-Chair and the Council shall elect a Vice-Chair following a procedure identical to that prescribed for the election of a Chair in Rule 1-5.

Rule 1-7. Rights of Nominee. Nothing in these rules shall be construed to prohibit any nominee from voting for himself or herself or to prohibit any nominee from voluntarily withdrawing his or her name from consideration at any time during the proceedings for the election of a Chair or Vice-Chair.

Rule 1-8. Filling a Vacancy in the Office of Chair or Vice-Chair. In the event there is a vacancy in the office of Chair, the Vice-Chair shall automatically become Chair of the Council for the unexpired term unless sooner removed. If there is a vacancy in the office of Vice-Chair, the Council shall elect a new Vice-Chair for the unexpired term following the procedure prescribed in Rule 1-6 above.

Rule 1-9. Filling a Vacancy on the Council. Whenever a vacancy occurs on the City Council, the remaining members of the Council shall elect, by a vote of at least four members, a person having the qualifications for the office of Council member to fill the vacancy until a successor has been duly elected and qualified as provided by the City Charter. The procedure for filling said vacancy shall be as follows:

(a) Within thirty days after the vacancy has occurred, or fifteen days after a meeting where the Council was unsuccessful in electing a replacement, the Council shall meet and attempt to elect a person to fill the vacancy on the Council. The agenda shall provide notice of such vote.

(b) The Chair shall call for nominations from the Council of persons to fill such vacancy and each member of the Council may nominate only one person otherwise qualified to be a member of the Council. A second shall be required before the person nominated is recognized by the Chair as a nominee. The Chair shall permit nominating and seconding speeches not to exceed five minutes each in duration. Once each Council member has submitted one name in nomination or when it otherwise appears that no other member wishes to submit a name in nomination, the Chair shall declare the nominations closed, without waiting for a motion to that effect.

(c) After nominations have been closed, voting to fill the vacancy on the Council shall take place by roll call vote. On each call of the roll, each member of the Council shall be entitled to vote for one nominee. If only one person has been nominated, yeas and nays may be cast during the roll call vote instead of the name of the nominee. The nominee who receives four or more votes on any roll call shall be elected to the City Council. Repeated roll call votes may be conducted until a nominee has been elected or until the Chair declares the vacancy cannot be filled at that meeting, as provided in subparagraph (f) of this rule. The Chair shall recognize any member of the Council desiring to be heard at the conclusion of any roll call vote where there has been no election of a nominee.

(d) After any roll call vote where no nominee has been elected, the Chair may entertain or call for a motion to reopen nominations. Upon the adoption of such a motion, the Chair shall receive and acknowledge additional nominations in the manner prescribed by subparagraph (b) of this rule, with each Council member being limited to submitting only one additional name in nomination. After the reopened nominations have been closed, voting shall proceed in the manner prescribed in subparagraph (c) of this rule.

(e) Any person nominated at any time during proceedings pursuant to this rule shall remain a nominee throughout such proceedings until a nominee to fill the vacancy has been elected.

(f) If no nominee has been elected to fill the vacancy, and there are no additional nominations, the Chair may declare that the vacancy cannot be filled at that meeting, and the Council may continue with other business or adjourn.

DUTIES OF THE CHAIR OF THE COUNCIL

Rule 2-1. Principal Duties. The principal duties of the Chair of the Council under parliamentary law are as follows:

(a) To open each meeting of the Council at the appointed time by calling the meeting to order after having ascertained that a quorum is present.

(b) To direct the Clerk to announce in proper sequence the business that is to come before the Council in accordance with the agenda and the existing orders of the day.

(c) To recognize members of the Council who are entitled to the floor.

(d) To state and put to a vote all questions that legitimately come before the Council as ordinances, resolutions, or other motions that arise in the course of proceedings, and to announce, or have the City Clerk announce, the result of each vote; or, if a motion that is not in order is made, to rule it out of order.

(e) To protect meetings of the Council from obviously frivolous or dilatory motions by refusing to recognize them.

(f) To enforce the rules relating to debate and to order and decorum within any place at which a regular or special meeting of the Council is held.

(g) To expedite business of the Council in every way compatible with the rights of its members and the public.

(h) To decide upon all questions of order, subject to appeal to the full Council for final decision of such a question. Any appeal of a decision of the Chair upon a question of order shall be immediately presented and voted upon by the full Council. In such event a majority vote of the members present and voting shall determine such question of order.

(i) To respond to inquiries of members of the Council relating to parliamentary procedure or factual information bearing upon the business of the Council.

(j) To authenticate by his or her signature, when necessary, all acts, orders, and proceedings of the Council.

(k) To declare a meeting adjourned at any time the Council so votes, or at the time prescribed in the Council agenda, or at any time in the event of sudden emergency affecting the safety of persons present.

Rule 2-2. Documents in Possession of Chair. At each meeting of the Council, in addition to the necessary papers proper to the business of that meeting, the Chair, or staff present, shall have at hand the following documents:

(a) A copy of the Council bylaws and rules of procedure as set forth in Chapter 2.04 of the Lincoln Municipal Code.

(b) A copy of Robert's Rules of Order, Newly Revised, as updated from time to time.

Rule 2-3. Right of Chair to Vote and Debate. The Chair of the Council shall possess all of the rights, duties and responsibilities of a member of the Council and shall be entitled to vote on any matter brought before the Council, notwithstanding the fact that he or she is serving as Chair. The Chair shall be entitled to fully participate in the discussion or debate on any matter before the Council; provided, that in order to preserve the rules of the Council relating to decorum and debate, the Vice-chair shall preside over the meeting during those times in which the Chair is engaged in such discussion or debate. While the Vice-Chair is presiding, a formal handover of the gavel is not required if the Chair's participation in the discussion or debate is brief in nature.

Rule 2-4. Standing Not Required. It shall not be necessary for the Chair to stand while calling the meeting to order, putting a question to a vote, explaining his or her reasons for ruling on a point of order, or when speaking during debate on an appeal of a point of order which has been submitted to the full Council for decision.

RULES OF COUNCIL DECORUM, DEBATE AND PROCEDURE

Rule 3-1. Bill; Definition; Action. A legislative item, either ordinance or resolution, assigned a number on the Council agenda is a Bill. When the time is reached on the agenda for action on a Bill, any Council member may move its adoption.

Rule 3-2. Right to Speak to the Same Question. No member of the Council shall speak more than once to the same question, without leave of the Chair, unless he or she is the mover, introducer, or proposer of the matter pending, in which case he or she shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken.

Rule 3-3. Attendance and Decorum While a Question is Called. While the Chair is putting any question, or addressing the Council, no member shall walk out of, or across the Council chamber; nor shall a member entertain private discourse when another member is speaking.

Rule 3-4. Vote of a Member Mandatory; Exception. Every member of the Council present when a question is put shall give his or her vote, unless such member has a financial conflict of interest on the pending question precluding him or her from voting thereon. In addition, a Council member may abstain from voting on the pending question if the Council member has a real or perceived personal conflict of interest that might reasonably be expected to impair his or her objectivity or independence in judgment. A Council member who abstains from voting shall also abstain from taking part in any public hearing or debate on said question.

Rule 3-5. Stating of Motions. When a motion is made and seconded, any member of the Council may request that it be stated by the Chair or, being in writing, read aloud by the Clerk before debate.

Rule 3-6. Written Motions. Every motion shall be reduced to writing, if the Chair or any member requests.

Rule 3-7. Withdrawal of a Motion. After a motion is made, it may be withdrawn by the mover if there has been no debate. Once debate on a motion has occurred, the motion may only be withdrawn by the mover with unanimous consent of the Council, or by an additional motion adopted by a majority vote of the members present and voting.

Rule 3-8. Motion to Lay on the Table. A motion to lay on the table is not debatable, requires a second, and five votes to be adopted. If a Bill is laid on the table and is not taken from the table before the meeting is adjourned, such Bill shall be automatically carried over to the next meeting on the same reading as when tabled, without any motion necessary to take it from the table.

Rule 3-9. Motion to Limit Debate; Procedure. A motion may be made to call the question or otherwise set limits on debate. Such motions are not debatable, require a second, and five votes to be adopted. If an amendment is pending, a motion to call the question shall state whether it refers only to the amendment or to the main question. Adoption of a motion to call the question that applies to an amendment shall end debate and bring the Council to a direct vote upon the amendment, after which debate may continue upon the main question. Adoption of a motion to call the question that applies to the main question shall end all debate and bring the Council to a direct vote upon any pending amendments, and then upon the main question.

Rule 3-10. Division of a Question. Any member may call for a division of a question if the subject motion contains several parts, each of which is capable of standing as a complete proposition if the others are removed.

Rule 3-11. Amendment Must be Germane to Subject Under Consideration; Annexation of Other Matter Prohibited. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. No Bill shall at any time be amended by annexing or incorporating any other Bill pending before the Council.

Rule 3-12. Motion to Reconsider; Procedure.

(a) Only a member of the prevailing side may move to reconsider a vote upon a Bill or other motion, or request that a Bill be advertised on the agenda for reconsideration.

(b) A motion to reconsider may only be made at the same meeting in which the original motion passed or failed, except that a motion to reconsider final action on a Bill or liquor resolution may be made at the same or next regular or special meeting.

(c) If a motion to reconsider is made at the next regular or special meeting and notice of the intention to reconsider has not been included on the agenda for such meeting, final action on the reconsidered item shall be delayed until the next regular or special meeting, or such other future meeting as may be determined by four votes of the Council.

(d) A motion to reconsider final action on a Bill requires four votes to pass.

Rule 3-13. Compelling Attendance of Absent Member. Any two members may compel the attendance of any member who is absent from the Council chamber.

Rule 3-14. Compelling a Roll Call Vote. Any member may compel the Clerk to call a roll vote on any matter before the Council for decision, when the Chair has not requested such vote.

Rule 3-15. Rotation of Roll Call Vote. In the taking of yeas and nays on roll call votes, the Clerk shall at the beginning of each meeting rotate the order in which the names of members of the Council are called by taking the name at the top of the order at the preceding meeting and placing it at the bottom of the order, except that the Chair shall never be called first.

Rule 3-16. Name of Introducer to be Entered Upon Minutes. In all cases where a motion shall be entered on the minutes of the Council, the name of the member moving or introducing the same shall also be entered.

Rule 3-17. Sergeant at Arms. The Chief of Police, or an officer designated by the Chief, shall be ex officio sergeant at arms, whose duties it shall be to attend the Council during each of its meetings, and to execute the commands of the Council relating to the service of all process issued by authority of the Council, as shall be directed by the Chair of the Council.

Rule 3-18. Reporting by Boards, Commissions, and Committees. Any advisory board, commission, or committee established pursuant to the provisions of Article IV, Section 25 of the City Charter shall have leave to report to the Council, in all cases providing in writing the state of facts, and their recommendations relating thereto.

Rule 3-19. Bills; Required Readings; Exception. Unless the Council shall waive this rule by five votes, every Bill proposed as an ordinance shall be read by title on at least three different days, and every Bill proposed as a resolution shall be read by title on at least two different days. The requirement that ordinances of a general or permanent nature be fully and distinctly read is dispensed with as authorized by Article V, Section 3 of the Charter.

Rule 3-20. Bills; Legislative Process. First reading of a Bill is for information only. All Bills on the agenda for first reading shall be listed together, and no Council action shall be required for such Bills to move on to second reading and public hearing. For Bills requiring a third reading before a vote may be taken, no Council action is necessary for such Bills to move on to third reading after a public hearing has been held. A resolution relating to an ordinance on the agenda shall be noted as relating to said ordinance, and will be given an action date that corresponds to the action date of the related ordinance. A Bill may only be moved or amended during the voting session on the date said Bill is advertised for action. However, when a Bill is reached on the agenda, on any reading, it may be withdrawn, rejected, rescheduled, or placed on pending by four votes. A withdrawal will not prejudice a reintroduction of the same Bill on any future agenda. A rejection will prejudice reintroduction of the same or similar Bill where limits on reintroduction exist (e.g. the zoning code). A motion to "postpone indefinitely" a Bill shall be considered a motion to withdraw said Bill unless otherwise indicated by the mover.

Rule 3-21. Public Hearings. No person shall be permitted to address the City Council for longer than five minutes on any agenda item or group of items called together, except by the unanimous consent of the Council, except that, in addition to the time allowed for an initial presentation on an item, the applicant on an item shall also have the right of rebuttal, limited to five minutes and to issues brought up during testimony. The applicant on each item shall be determined by the Chair. Time limitations shall not apply to proceedings before the Council requiring the taking of testimony under oath. During voting sessions, no testimony shall be allowed without leave of the Chair, and then only as necessary to provide clarification on pending motions. The City Council shall have the right to limit or exclude the presentation of information or testimony which is irrelevant or redundant.

Rule 3-22. Each Bill Copied Into Council Record. Every Bill passed or adopted shall be copied in full into the Council record and shall be certified to by the Clerk.

Rule 3-23. Bill Processing Dates Noted by Clerk. The Clerk shall note on each Bill the dates of the first, second and third readings, passage, approval by the Mayor and publication.

Rule 3-24. Assignment of Numbers to Bills. All proposed Bills shall be numbered by the Clerk by indicating whether it is an ordinance or resolution and the calendar year and sequential order of its introduction in such year. All Bills adopted by the Council shall be numbered by the Clerk in the order in which they are passed. The Clerk shall also maintain a permanent record of all Bills which fail to pass.

Rule 3-25. Formal Agenda; Preparation, Matters Not on Agenda Prohibited During Public Hearing; Notice. All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Council shall be submitted to the City Clerk no less than ninety-six hours prior to the time for commencement of each regular meeting of the Council, whereupon the Clerk shall prepare a meeting notice together with a formal agenda of such matters to come before the Council as its regular business for such meeting. The Clerk shall furnish each member of the Council, the Mayor, and director of each department with a copy of such formal agenda prior to the Council meeting and as far in advance of the meeting as time for preparation will permit. Any member of the Council may place any matter on the formal agenda of the Council in accordance with the requirements of this rule. No member of the Council may bring before the Council

at its public hearing any matter not otherwise properly placed upon the formal agenda of the Council as provided by this rule. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting, or (b) forty-eight hours before the scheduled commencement of a meeting scheduled outside the corporate limits of the city. The Council shall have the right to modify the agenda to include items of an emergency nature only at such public meeting at which the nature of any such emergency shall be publicly stated and recorded in the minutes of the meeting. The Clerk shall cause the meeting notice and formal agenda to be posted on the official bulletin board. The City Clerk or other designee of the City Council shall maintain a list of the news media requesting notification of meetings, and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting.

Rule 3-26. Change to the Order of Business. The order of business of the Council as established by its formal agenda and the standing rules of Section 2.04.010, shall not be changed, except by a vote of at least two-thirds of members present and voting.

Rule 3-27. Five Votes Required for Rescission, Amendment or Suspension of Rules. None of the foregoing rules of decorum, debate, and procedure shall be rescinded, amended, or suspended, except by a vote of five members of the Council.

Rule 3-28. Written Communications to Council. Any person may direct a written communication to the City Council on any matter concerning the city's business by directing the communication through the City Clerk. Reference to any such written communication may be considered at the next regular Council meeting only if placed on the agenda under the order of business entitled "Petitions and Communications."

Rule 3-29. Dissent or Protest of a Member Entered Into Minutes. Any member of the Council shall have the right to have the reasons for his or her dissent from or protest against any action of the Council entered in the minutes.

Rule 3-30. Introduction of Bills; Signature Required. If no Council member will sign a Bill for introduction, said Bill shall be removed from the agenda by the City Clerk prior to its scheduled public hearing.

Rule 3-31. Pending List. When any Bill is reached on the agenda, on any reading, it may be placed on the pending list by motion adopted by four votes. A motion to place a Bill on pending shall either specify a date certain upon which a specified action shall be taken (e.g. bringing it back up for public hearing or for a vote), in which case such action will take place on that date with no further motion required by the Council, or no date certain, in which case the Bill will remain on pending until the Council removes it by motion adopted by four votes. During voting sessions, when a main motion on a Bill is on the floor, a motion to place on pending that Bill and other related Bills on the agenda shall be in order, even though such related Bills are not then part of the motion on the floor. A motion to place an item on pending shall not be in order when an amendment to a Bill is on the floor. Bills without a date certain may be returned to the agenda for public hearing or action only after providing a two meeting notice, unless the Council waives this rule by five votes; however, any pending item may be withdrawn at any meeting by four votes. Every regular meeting agenda shall list all pending items.

Rule 3-32. Liquor Resolutions. Notice of liquor applications shall be provided as required under state law, and therefore shall not require a first reading before appearing on the agenda for public hearing. A motion may be made to adopt a liquor resolution that recommends either approval or denial of a license or related application, and such motion shall require four votes or shall fail. If no motion on a liquor application is adopted, then the liquor application shall automatically carry over to the agenda for the next regular Council meeting for public hearing unless otherwise determined by four votes of the Council. Liquor applications are not assigned Bill numbers and are not Bills. (Ord. 20178 §1; April 6, 2015: prior Ord. 19094 §1; June 16, 2008: Ord. 17182 §1; May 5, 1997: Ord. 15377 §1; January 8, 1990: P.C. §1.24.011: Ord. 13888 §1; July 9, 1984: Ord. 13773 §1; February 27, 1984: Ord. 11534 §1; December 8, 1975: Ord. 11410 §1; July 14, 1975: Ord. 11050 §1; March 25, 1974).

2.04.020 Public Hearings.

(Repealed by Ord. 20178 §2; April 6, 2015: prior Ord. 17579 § 1; November 15, 1999: Ord. 17182 §2; May 5 1997: Ord. 15377 §2; January 8, 1990: P.C. §1.24.020: Ord. 3489 §27-302, as amended by Ord. 4019; May 21, 1945).

2.04.030 Required Votes.

Final action on a Bill requires either four votes in favor or four votes opposed. If the main motion on a Bill does not receive the required four votes, the Bill shall be automatically scheduled for a vote at the next regular meeting, unless it is withdrawn, scheduled for continued public hearing or action on another date, or placed on pending. Any other motion that does not receive the required number of votes shall fail, including a motion to amend, which requires a majority vote of those present and voting to pass. Motions with required votes not specified in this chapter shall require the number of votes specified in Robert's Rules of Order. Any requirement in this chapter for a specific number of votes shall mean that number of votes or more. A main motion on a Bill shall not require a second. (Ord. 20178 §3; April 6, 2015: prior Ord. 15377 §3; January 8, 1990: P.C. §1.24.030: Ord. 3489 §27-303, as amended by Ord. 6283, February 20, 1956).

2.04.040 Audible Devices Prohibited.

The audible use of any electronic device, such as a mobile telephone, other than those authorized by the City Council or used by law enforcement personnel on duty, is prohibited in any meeting of the City Council. (Ord. 20178 §4; April 6, 2015).

2.04.050 Meetings; Closed Sessions.

The City Council may hold a closed session as provided by, and in accordance with the procedures set forth in Neb. Rev. Stat. §84-1408, et seq., as the same now exists or as such statutes may be amended from time to time. Four votes are required to go into closed session. (Ord. 20178 §5; April 6, 2015).

Chapter 3.16

SALES AND USE TAX

Sections:

3.16.010 Sales and Use Tax Imposed.
3.16.020 Administration of Tax.
3.16.030 Effective Date.
3.16.040 Deposit of Proceeds into General Fund.
3.16.050 Governing Provisions of the Nebraska Revenue Act of 1967.
3.16.060 Certified City Map to Tax Commissioner.
3.16.070 Certification to Tax Commissioner.
3.16.080 Collection of Tax.
3.16.090 Claims of Illegal Assessment and Collection.

3.16.010 Sales and Use Tax Imposed.

Beginning October 1, 2015, pursuant to the provisions of the "Local Option Revenue Act," Neb. Rev. Stat. §§ 77-27,142 to 77-27,148 (Reissue 2009), the City of Lincoln hereby increases its sales and use tax rate from one and one-half percent to one and three-quarters percent upon the same transactions within the corporate limits of the City of Lincoln on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the Nebraska Revenue Act of 1967, as amended from time to time. Beginning October 1, 2018, the City of Lincoln shall reduce its sales and use tax of one and three-quarters percent to one and one-half percent upon transactions within the City's corporate limits. (Ord. 20197 §1; May 18, 2015: prior Ord. 15427 §1: February 12, 1990: P.C. §4.50.010: Ord. 14117 §1; May 20, 1985: Ord. 10495 §1; July 10, 1972: Ord. 9847 §1; September 2, 1969).

3.16.020 Administration of Tax.

The Tax Commissioner of the State of Nebraska shall administer all sales and use taxes adopted under and imposed by Section 3.16.010 of this chapter. The Tax Commissioner of the State of Nebraska may prescribe reasonable rules and regulations in conformity with the Local Option Revenue Act for the making of returns and for the ascertainment, assessment and collection of taxes imposed hereunder. (Ord. 15427 §2: February 12, 1990: P.C. §4.50.020: Ord. 9847 §2; September 2, 1969).

3.16.030 Effective Date.

The sales and use tax imposed by Section 3.16.010 of this chapter, as amended, shall become effective on July 1, 1985. (Ord. 15427 §3: February 12, 1990: P.C. §4.50.040: Ord. 14117 §2; May 20, 1985: prior Ord. 10495 §3; July 10, 1972: Ord. 9847 §4; September 2, 1969).

3.16.040 Deposit of Proceeds into General Fund.

Proceeds of a tax levied by the City of Lincoln under the provisions of Section 3.16.010 shall be deposited by the City of Lincoln upon receipt thereof in its General Fund. (Ord. 15427 §4: February 12, 1990: P.C. §4.50.070: Ord. 9847 §7; September 2, 1969).

3.16.050 Governing Provisions of the Nebraska Revenue Act of 1967.

All relevant portions of the Nebraska Revenue Act of 1967, as amended from time to time, and not inconsistent with the provisions of the Local Option Revenue Act and this chapter shall govern transactions, proceedings and activities pursuant to any tax imposed under the provisions of this chapter and the Local Option Revenue Act. (Ord. 15427 §5: February 12, 1990: P.C. §4.50.080: Ord. 9847 §8; September 2, 1969).

3.16.060 Certified City Map to Tax Commissioner.

The City Clerk shall deliver or cause to be delivered to the Tax Commissioner of the State of Nebraska a certified map of the City of Lincoln clearly showing the boundaries thereof upon the passage of this chapter and shall thereafter from time to time deliver or cause to be delivered to the Tax Commissioner of the State of Nebraska a certified map of the City of Lincoln showing any additional areas which may become a part of the City of Lincoln after the effective date of this chapter. (Ord. 15427 §6: February 12, 1990: P.C. §4.50.090: Ord. 9847 §9; September 2, 1969).

3.16.070 Certification to Tax Commissioner.

The City Clerk of the City of Lincoln shall deliver a certified copy of the adopting ordinance and any amendments or changes thereto to the Tax

Commissioner in accordance with such rules and regulations as the Tax Commissioner may prescribe. (Ord. 15427 §7; February 12, 1990: P.C. §4.50.030: Ord. 10495 §2; July 10, 1972; prior Ord. 9847 §3; September 2, 1969).

3.16.080 Collection of Tax.

Pursuant to the provisions of the Local Option Revenue Act, the State Tax Commissioner shall collect the tax imposed by Section 3.16.010 concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the City of Lincoln after deducting the amount of refunds made and then three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. (Ord. 15427 §8; February 12, 1990: P.C. 4.50.050: Ord. 9847 §5; September 2, 1969).

3.16.090 Claims of Illegal Assessment and Collection.

Upon any claim of illegal assessment and collection, the taxpayer shall have the same remedies provided for claims of illegal assessment and collection of the state tax, it being the intention of the City Council of the City of Lincoln that the provisions of law which apply to the various state taxes illegally assessed and collected shall apply to the recovery of taxes illegally assessed and collected under the authority of this chapter. (Ord. 15427 §9; February 12, 1990: P.C. §4.50.060: Ord. 9847 §6; September 2, 1969).

Title 4

BOARDS AND COMMISSIONS

Chapters:

4.04 Charter Revision Commission

4.08 Citizen Police Advisory Board

4.16 Hospital Board

4.20 Library Board

4.24 Lincoln Electric System Administrative Board

4.28 Lincoln Municipal Airport

4.36 Urban Design Committee

4.40 Air Pollution Control Agency

4.48 Planning and Zoning Commission

4.50 Multicultural Advisory Committee

4.54 Community Forestry Advisory Board

4.60 Relocation Assistance Appeal Board

4.62 Police and Fire Pension Plan Investment Board

4.64 Disability Pension Review Committee (Police and Fire Pension Plans)

4.66 City Performance Audit Committee

Chapter 4.66

CITY PERFORMANCE AUDIT COMMITTEE

Sections:

4.66.010 Definitions.
4.66.030 City Performance Audit Committee Established; Membership.
4.66.035 Term and Removal.
4.66.040 Duties and Powers.
4.66.050 Meetings and Rules.
4.66.060 Committee Staff.
4.66.070 Contract Auditors.
4.66.080 Audit Coordination.
4.66.090 Records.
4.66.100 Access to Information.
4.66.110 Auditee's Response.
4.66.120 Selecting a Contract Auditor; Process.

4.66.010 Policy.

The City of Lincoln recognizes the importance of periodically reviewing its operations in order to ensure an efficient and appropriate use of its resources to fulfill the City's obligations under the law and to meet the needs of the community. In furtherance thereof, the City is desirous of establishing a mechanism to secure audits of City offices, departments, agencies, and other governmental organizations subject to a City audit. The purpose of such audits is to review (1) the performance, efficiency, and effectiveness of any or all offices, departments, agencies, and other governmental organizations in which the City has a role; (2) the adequacy of management and financial accounting systems and controls; and (3) the accuracy of management and financial records, statements, and reports within the jurisdiction of the City Council and/or Mayor. (Ord. 19007 §1; October 8, 2007).

4.66.020 Definitions.

Auditee shall mean the City office, department, agency, or other governmental organization which is the object of a contract audit as specified in the City's contract with the contract auditor.

Committee shall mean the City Performance Audit Committee unless otherwise specified.

Committee audit report shall mean the written report created by the Committee which shall include the final audit report, any written response by the auditee, a separate listing, if any, of irregularities or failures to comply with legal or administrative policies, and the Committee's recommendations.

Contract administrator shall mean the City official charged with administering the contract with the contract auditor. The Director of Finance shall be the contract administrator, provided, however, if the Finance Department is specifically named in the contract as the auditee, the Mayor shall designate another City employee as Contract Administrator for that contract audit.

Contract audit shall mean an audit performed pursuant to this chapter and shall be any one or combination of a financial audit, a performance audit, an internal audit, or operational review.

Contract auditor shall mean the person with whom the City contracts at the direction of the Committee to perform a contract audit under this chapter.

Custodian of records shall mean the City Clerk.

Final audit report shall mean the report created by the contract auditor following his or her audit. No working papers shall be attached or otherwise disseminated by the contract auditor as part of a final audit report or otherwise.

Financial audit shall mean an audit designed to address questions of accounting and reposting of financial transactions, including commitments, authorizations, and receipt and disbursement of funds. The purpose is to verify that sufficient controls over cash and cash-like assets exist and that adequate processes controls over the acquisition and use of resources exist. Financial audits shall be conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Generally Accepted Government Auditing Standards (GAGAS) maintained by the federal Government Accountability Office (GAO). For purposes of this chapter, financial audit does not include the external independent audit required in Article IV, Section 8 of the City Charter.

Internal audit shall mean an independent appraisal of operations to assess the effectiveness of internal administrative and accounting controls and help ensure conformance with managerial policies. Internal audits shall be conducted in accordance with the Standards for the Professional Practice of Internal

Auditing (SPPIA) as promulgated by the Institute of Internal Auditors.

Operational review shall mean an objective and systematic examination of evidence to evaluate the City's conformity with plans and resource allocations, organizational structure, operating procedures, process controls, and to evaluate whether the auditee is operating efficiently, economically, and effectively to maximize the desired results.

Performance audit shall mean an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision making by parties with responsibility to oversee or initiate corrective action. Performance audits shall be conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS) maintained by the federal Government Accountability Office (GAO).

Working papers shall mean those documents containing evidence to support the contract auditor's findings, opinions, conclusions, and judgments. (Ord. 20186 §2; April 13, 2015: prior Ord. 19007 §2; October 8, 2007).

4.66.030 City Performance Audit Committee Established; Membership.

The City Performance Audit Committee (Committee) is hereby established. The Committee shall consist of five members and shall be comprised as follows:

(a) Two members shall be appointed by the Mayor. At least one of the Mayor's two appointees shall hold an active license as a certified public accountant in Nebraska, or be a certified internal auditor, or have experience showing specialized knowledge in the area of conducting performance audits. The Mayor's appointees shall not share the same political party registration.

(b) The Committee shall include three City Council members. The City Council Committee members shall be elected by a majority vote of the City Council. No more than two City Council Committee members shall share the same political party registration when elected to the Committee. (Ord. 20186 §3; April 13, 2015: prior Ord. 19007 §3; October 8, 2007).

4.66.035 Term and Removal.

(a) City Council members of the Committee shall serve a term of two years with no limit on the number of terms.

(b) The term of service for outside members of the Committee shall be three years. Initially, one of outside members shall serve for two years, and one of the outside members shall serve for three years. The Mayor shall designate, while making the appointments, the initial term lengths of the respective appointees. Upon expiration of the initial terms, appointments thereafter shall be for a period of three years. No outside member shall serve more than six consecutive years on the Committee.

(c) The Committee shall elect a chair from the City Council members of the Committee. The chair shall serve for a one-year term. Successive terms by the chair are permitted.

(d) Committee members may be removed from office by a majority vote of the City Council for malfeasance or nonfeasance of office or for any cause that renders the member ineligible for office or incapable or unfit to discharge the duties thereof. Violation of Section 4.66.090(b) of the Lincoln Municipal Code, or any other provision of this chapter, shall be grounds for immediate removal from the Committee. (Ord. 20186 §4; April 13, 2015).

4.66.040 Duties and Powers.

As authorized in this chapter, the Committee shall advise the City Council on matters relating to financial audits, internal audits, performance audits, and operational reviews as provided for in this chapter. However, the Committee shall not review or recommend an audit of the performance of any particular employee and shall not infringe upon the authority of the Personnel Board, Human Resources Director, a Department head, Mayor, or City Council with respect to personnel matters. Nothing in this chapter shall confer upon the Committee or the City any authority to audit governmental organizations not otherwise subject to City audit.

The City Council shall, by majority vote, select at least one subject for an audit by the Committee each year. The Council's decision on at least one such audit subject shall be completed by August 31st.

The Committee shall have the following responsibilities:

(a) The Committee shall develop an annual audit program. The Committee's program shall be

submitted to the City Council for review and approval.

(b) The Committee shall approve annual audit protocols.

(c) The Committee shall make recommendations to the Mayor and City Council of changes in the City's financial and management practices.

(d) When directed to do so by resolution of the City Council, determine whether an audit, as suggested in Council's resolution, is appropriate and desirous. In order to make this determination, the Committee may consult with departments heads to familiarize themselves with information necessary to make an informed decision on whether and what type of contract audit should be conducted. If the Committee determines that such an audit is not appropriate and desirous, the Committee shall forward such decision in writing to the City Council.

If the Committee concludes that such an audit is appropriate and desirous, the Committee shall determine what the scope of such audit should be. In recommending the scope of the audit, the Committee shall pay particular attention to the anticipated cost to the City for such audit including, but not limited to, the cost of gathering or providing access to records that may be requested by the contract auditor. The Committee's recitation of the scope of the audit shall include:

(1) Identification of the auditee including, if applicable, what particular function or activity of the auditee should be audited;

(2) Whether the contract audit should be a financial audit, an internal audit, a performance audit, an operational review, or any combination thereof;

(3) The time span to be covered by the audit; and

(4) Whether the contract auditor should be the State Auditor of Public Accounts, or whether the City should pursue a private contractor to serve as contract auditor.

The Committee shall transmit the scope of the audit, in writing, to the City Purchasing Agent.

(e) Evaluate the adequacy of management and financial accounting systems and controls based on the final audit report and any written response thereto furnished by the auditee;

(f) Appraise and verify the accuracy of management and financial records, statements and reports based on the final audit report and any written response thereto furnished by the auditee;

(g) Report to the Mayor and the City Council, in the form of a Committee audit report, within sixty days of receiving the final audit report. The Committee audit report shall be simultaneously transmitted to the Mayor and the City Council. Three copies of the Committee audit report shall be placed on file with the City Clerk for public examination. The Committee audit report shall include:

(1) The Committee's findings, based on the final audit report and the response of the auditee as to whether:

(i) Activities and programs are being conducted and funds expended in compliance with applicable laws;

(ii) Revenues are being properly collected, deposited and accounted for;

(iii) Resources are adequately safe-guarded, controlled and used in an effective and efficient manner; and/or

(iv) There are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management;

(2) A copy of the final audit report and auditee's response thereto;

(3) A separate listing, if any, of irregularities or failures to comply with legal or administrative policies; and

(4) The Committee's recommendations. (Ord. 20186 §5; April 13, 2015: prior Ord. 19969 §52; December 16, 2013: Ord. 19007 §4; October 8, 2007).

4.66.050 Meetings and Rules.

The Chair shall conduct meetings of the Committee. Such meetings shall be subject to the open meetings laws of the City Charter and statutes of the State of Nebraska. The Committee shall hold regular meetings on a minimum of a quarterly basis. The Committee shall keep minutes of its meetings which shall document all resolutions, motions, and determinations of the Committee and shall be kept on file in the office of the City Clerk.

A quorum of the Committee shall be three members. Three affirmative votes are required for any final action of the Committee.

The Committee may adopt such rules, bylaws, and procedures as it deems appropriate to carry out the purposes and goals of this chapter, in accordance with the City Charter, Lincoln Municipal Code, and

relevant state or federal law. (Ord. 20186 §6; April 13, 2015: prior Ord. 19007 §5; October 8, 2007).

4.66.060 Committee Staff.

The legal advisor to the Committee shall be the City Attorney.

Department heads and their designees shall cooperate with the Committee in order that the Committee may carry out its duties. In the event the Committee requests information which would not be mandatorily disclosed pursuant to a public records request, the department head or designee shall refrain from providing such information at that time and shall consult with the City Attorney and the Mayor. The Mayor shall determine what records or information shall be provided in response to the Committee's request. (Ord. 20186 §7; April 13, 2015: prior Ord. 19007 §6; October 8, 2007).

4.66.070 Contract Auditors.

Contract auditors may not have a financial interest in the affairs of the auditee or the City, or its officers or members of the Committee.

The contract with the contract auditor shall include language requiring the contract auditor to retain all working papers or other documents gathered or created in the course of conducting the audit for a period of ten years. During and after that ten-year period, the contract auditor may not disseminate such information except as required by law. The contract shall further require that upon receipt of a request for such information, in the form of a public record request, subpoena, or otherwise, the contract auditor shall, within one working day of receiving such request, forward such request to the City Attorney and shall not fulfill the request. At the end of the ten years, the contract auditor shall destroy all such documents, working papers, and information, in whatever form, by shredding, incinerating, wiping, or otherwise rendering such data unrecoverable, and shall confirm such destruction in writing to the City Clerk; provided, however, that the City may require an extension of the ten-year period as may be reasonable prior to destruction of the material. Nothing in this section is intended to prohibit the contract auditor and the City from agreeing to reasonable terms for access to such data by the City.

The contract shall also include language requiring that the contract audit be performed in accordance with the industry standard for the type of audit that is the subject of the contract audit. A contract for a performance audit or financial audit shall include language that such audit be performed in accordance with the Generally Accepted Government Auditing Standards. A contract for an internal audit shall contain language that such audit be performed in accordance with the Standards for the Professional Practice of Internal Auditing as promulgated by the Institute of Internal Auditors.

The contract with the contract auditor shall require the contract auditor to prepare a final audit report and to simultaneously furnish such report to the Committee, the auditee, the Mayor, and City Council.

The contract with the contract auditor shall include language which identifies the scope of the audit and which specifies the auditee. The contract shall also specify the type of audit to be performed under this chapter. (Ord. 20186 §8; April 13, 2015: prior Ord. 19007 §7; October 8, 2007).

4.66.080 Audit Coordination.

Prior to contracting with a contract auditor for a particular audit, consideration shall be given to audits, whether contract audits or otherwise, which have been previously performed, are ongoing, or are scheduled for future performance in order to minimize duplication of efforts with respect to auditing particular City activities, functions, offices, departments, agencies, and other governmental organizations subject to City audit. (Ord. 19007 §8; October 8, 2007).

4.66.090 Records.

(a) The custodian of records for all records received or created by the Committee shall be the City Clerk.

(b) Neither the Committee nor any member thereof shall, by their own initiation or pursuant to a request, release, disclose, disseminate, or otherwise provide any document, record, or material in whatever form, except as required in this chapter. Any and all requests made of the Committee or a Committee member for such material shall, within one day of receipt of a request, be forwarded to the City Attorney. (Ord. 20186 §9; April 13, 2015: prior Ord. 19007 §9; October 8, 2007).

4.66.100 Access to Information.

(a) All officers and employees of the City of Lincoln shall, upon request by a contract auditor, furnish access to all documents, records, or materials of or belonging to the City of Lincoln, or copies

thereof, regardless of the form in which they were created or stored, within the custody of or under the control of the officer or employee. In the event the officer or employee of the City believes that furnishing particular access to the contract auditor would violate an applicable policy or law of the City, including policies relating to the dissemination of information, or would conflict with federal or state law, such officer or employee shall refrain from providing access to the contract auditor and shall immediately notify his or her department head and the City Attorney of the request.

In the event the City Attorney believes that provision of the requested information would violate a City policy or applicable city, state, or federal rule, regulation or law, or if the City Attorney believes the requested information is subject to withholding under the Public Records Act or that the City is prohibited from making the requested disclosure, the City Attorney shall indicate as much in writing to the contract auditor and such information shall be disclosed to the contract auditor in a de-identified or redacted form. If the information provided by the City Attorney is not acceptable to the contract auditor, the contract auditor may notify the Mayor that there is a question as to what information should be made accessible and the Mayor, in consultation with the City Attorney, shall determine what records or information shall be provided the to contract auditor.

(b) All contracts entered into by the City for the purchase of services or goods shall contain language requiring that such contractor make available to a contract auditor copies of all financial and performance related records and materials germane to the city contract, as allowed by law.

(c) In addition to other restrictions on the dissemination of working papers and documents provided elsewhere in this chapter, neither the contract auditor nor the Committee or any individual member thereof may disclose any information received during an audit that is considered proprietary in nature or confidential by any local, state, or federal law or regulation. (Ord. 20186 §10; April 13, 2015: prior Ord. 19007 §10; October 8, 2007).

4.66.110 Auditee's Response.

The auditee shall have thirty days after receipt of the final audit report to provide the Committee with a written response to such final audit report. The auditee's response shall include:

(a) Whether the auditee agrees or disagrees with the final audit report;

(b) Reasons for any disagreement with the final audit report;

(c) Recommendations or plans for implementing solutions to issues identified in the final audit report as requiring attention;

(d) A reasonable time table for the completion of such activities;

(e) A reasonable estimate of the costs associated with completion of such activities. (Ord. 20186 §11; April 13, 2015: prior Ord. 19007 §11; October 8, 2007).

4.66.120 Selecting a Contract Auditor; Process.

(a) Upon receipt of an audit scope from the Committee, if the Committee recommended pursuing a contract with the State Auditor of Public Accounts (State Auditor), the Purchasing Agent shall contact the State Auditor and negotiate a contract to perform the audit as scoped by the Committee. Upon reaching agreement on contract terms with the State Auditor, the Purchasing Agent shall forward such proposed contract to the City Council for action along with a recommendation of approval or rejection. If the Purchasing Agent is unable to reach agreement with the State Auditor as to the terms of a contract, or if the State Auditor is unwilling or unable to serve as contract auditor, the Purchasing Agent shall report as much to the Committee. The Committee shall then review the audit scope and determine whether:

(1) Such proposed audit shall be abandoned; or

(2) Such proposed audit shall be pursued in accordance with (b) below, in which case the Committee shall forward the audit scope to the Purchasing Agent with directions that the Purchasing Agent proceed in accordance with (b), below; or

(3) Such proposed audit shall be further pursued with the State Auditor, in which case the Committee shall direct the Purchasing Agent to reopen negotiations with the State Auditor.

(b) Upon receipt of the audit scope from the Committee, or pursuant to (a)(2), above, the Purchasing Agent shall proceed in accordance with either b(1) or b(2) below, depending upon the anticipated cost of the contract audit at issue. The anticipated cost means the total amount to be paid the contract auditor, and does not include the cost to the City of submitting to the contract audit.

(1) If the anticipated cost of the contract audit is less than $30,000.00, the Purchasing Agent shall secure and record at least three informal quotes, if practical, from persons qualified to perform the contract audit. The Purchasing Agent shall rank the responders based on their overall ability to perform the contract audit; performance record for timeliness; performance record for compliance with this code; reputation for professionalism; current workload with the City; any other specialized qualification which a responder might possess which would be of benefit to the project, such as familiarity with the particular activity being audited; and cost of services.

The Purchasing Agent shall negotiate a contract with the first ranked responder, consistent with the scope provided by the Committee. The negotiated contract, which shall be signed by the would-be contract auditor, shall be forwarded to the City Council for consideration.

(2) If the anticipated cost of the contract audit is greater than $30,000.00, the Purchasing Agent shall prepare and advertise a request for proposals for publication. Upon receipt of valid responses to the request for proposals, the Purchasing Agent shall forward such responses to the Committee. The Chair of the City Council shall provide copies of the responses to members of the Committee. No member of the Committee shall further disseminate such responses, or otherwise disclose the contents of such responses until such time as a contract for the anticipated audit has been either accepted or rejected by the City Council as a whole.

(c) Upon receipt of the proposals pursuant to (b)(2) above, the Committee shall evaluate the proposals, negotiate with the responders as necessary, and select the proposal which best serves the City's interests. The Committee shall forward the selected proposal and contract terms to the City Council for action. If the Committee does not believe any of the proposals meet the needs of the City, it may forward all proposals to the City Council with a written recommendation that all proposals be rejected. (Ord. 20186 §12; April 13, 2015: prior Ord. 19007 §12; October 8, 2007).

Chapter 8.14

CHILD CARE PROGRAMS

Sections:

8.14.005 Purpose.
8.14.010 Definitions.
8.14.020 License and Certificate of Compliance Required.
8.14.030 Certificate of Compliance; Application.
8.14.033 New Child Care Program Facility Plan Review Required.
8.14.035 Operator and Staff Training Requirements.
8.14.037 Child Care Program; Fees.
8.14.040 Certificate of Compliance; Issuance.
8.14.060 Term of Certificate of Compliance; Expiration; Nontransferable.
8.14.065 Late Fees.
8.14.070 License and Certificate of Compliance to be Posted.
8.14.090 Operation of Program; Rules and Regulations.
8.14.110 Variances.
8.14.120 Enforcement, Inspection.
8.14.130 Revocation or Suspension of Certificate of Compliance.
8.14.140 Suspended Certificate of Compliance; Reinstatement.
8.14.150 Suspended Certificate of Compliance; Reinstatement Fee.
8.14.160 Revoked Certificate of Compliance; Application for New Certificate of Compliance.
8.14.170 Notice; Service.
8.14.180 Enforcement Hearings.
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8.14.200 Liability of Operator.
8.14.210 Penalty.

8.14.005 Purpose.

The City Council finds that child care programs in Lincoln and its corporate limits:

(a) Serve a uniquely vulnerable population, infants and children, at increased risk for illness and injury;

(b) Have repeatedly been a source of community wide outbreaks of communicable diseases;

(c) Require regular inspections and consultations by the Health Director to assure a safe and healthy environment; and

(d) Are expected to be safe, healthy and free of environmental hazards.

It is therefore declared to be the public policy of this city to prevent and eliminate health and safety risks posed by the practice of child care by regulating these practices, providing rules and regulations, requiring certificates in order to operate, requiring inspections, and providing standards for enforcement. The City Council authorizes the Health Director to administer and enforce this chapter within the city and within three miles of the city and outside of any other organized city or village. (Ord. 18834 §1; October 23, 2006).

8.14.010 Definitions.

For the purpose of this chapter the following words shall have the following meanings:

Child care program shall mean the provision of services in lieu of parental supervision for thirteen or more children under thirteen years of age for compensation either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any child care center or preschool licensed pursuant to *Neb. Rev. Stat.* § 71-1910, but shall not include casual care at irregular intervals, a recreation camp, any program provided by the City of Lincoln Parks and Recreation Department, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to *Neb. Rev. Stat.* § 79-318, or foster care as defined in *Neb. Rev. Stat.* § 71-1901.

Health Director shall mean the Director of the Lincoln-Lancaster County Health Department or authorized representative.

Operator shall mean a person, firm, partnership, company, corporation, trustee, association, organization or other public or private entity, including non-profit groups or organizations that owns, operates, and manages an child care program.

Parent shall mean an adoptive or biological parent, foster parent, legal guardian, or legal custodian of a minor.

Person shall mean an individual, a corporation, an organization, a limited liability company, or other legal entity.

Premises shall mean the child care center or other building or facility in which a child care program is operated, including areas not used for child care, all attached and all outbuildings, and all areas included within the lot boundaries. (Ord. 20133 §1; January 12, 2015; prior Ord. 18834 §2; October 23, 2006: Ord. 15554 §1; May 14, 1990: P.C. §5.45.010: Ord. 13962 §1; September 17, 1984).

8.14.020 License and Certificate of Compliance Required.

No person shall operate or offer to operate a child care program without having in full force and effect:

(a) A written license from the Nebraska Department of Health and Human Services Regulation and Licensure, if applicable; and

(b) A certificate of compliance issued by the Health Director. (Ord. 18834 §3; October 23, 2006: prior Ord. 15554 §2; May 14, 1990: P.C. §5.45.020: Ord. 13962 §2; September 17, 1984).

8.14.030 Certificate of Compliance; Application.

An application for a certificate of compliance of a child care program with the city's physical well-being and safety standards shall be made to the Health Director in writing upon forms provided for that purpose by the city. Such application shall include applicable fees and contain the following information, in addition to such other information as the Health Director may desire, to wit:

(a) Name, address, and telephone number of operator;

(b) Address of child care program;

(c) Complete description of premises; type and construction, size of building and other facilities;

(d) Name of person to be in direct charge of child care program;

(e) Number of persons to be employed in the operation of the child care program; and

(f) Maximum number of children to be accommodated in the child care program. (Ord. 18834 §4; October 23, 2006: prior Ord. 15554 §3; May 14, 1990: P.C. §5.45.030: Ord. 13962 §3; September 17, 1984).

8.14.033 New Child Care Program Facility Plan Review Required.

After the effective date of this ordinance, any newly proposed, relocated, or remodeled child care program must submit architectural plans or to-scale drawings of the premises and building in which a child care program shall be operating to the Health Director for review. The Health Director shall review such plans within thirty days of receipt of full plans or drawings.(Ord. 18834 §5; October 23, 2006).

8.14.035 Operator and Staff Training Requirements.

Before a certificate of compliance shall be issued or renewed by the Health Director, the operator shall submit verification for the operator and all staff of completion of training approved by the Health Director. Such training shall be completed before an initial certificate of compliance is issued and shall be completed every two years thereafter before a renewal certificate of compliance is issued. At a minimum, such training shall include a total of two hours in the following subjects: illness and injury prevention, mildly ill child care, medication administration, safe food handling, and the requirements of this chapter. In addition, the operator or the person in charge of food preparation shall hold at least a Level III Food Handlers Permit issued per Lincoln Municipal Code Chapter 8.20, the Lincoln Food Code. Copies of original certificates of attendance must be provided to the Health Director. Existing operators and staff must obtain training within twelve months of the adoption of this chapter. Newly hired staff must have training within thirty days of employment. (Ord. 18834 §6; October 23, 2006).

8.14.037 Fees.

(a) The City Council may, by resolution, from time to time establish or revise fees for the following:

(1) Plan review for new, remodeled or relocated child care programs

(2) Fees for certificate of compliance (initial or renewal).

(b) Any person issued a new certificate of compliance after July 31 and before December 15 of each year shall pay 67% of the annual fee. Any person issued a new certificate of compliance on or

10.02.140 Freeway.

Freeway as used in this title shall mean divided arterial highway which is a part of the state highway system, designed primarily for through traffic, with full control of access and with grade separations at all intersecting road crossings, and shall include all interchanges and approach and exit roads thereto. "Freeway" shall include any portion of the national system of interstate and defense highways which meet the requirements hereinbefore stated. (Ord. 19971 §1; December 16, 2013: prior Ord. 15628 §14; July 9, 1990: P.C. §10.04.092: Ord. 8926 §1; Feb. 14, 1966).

10.02.150 Intersection or Street Intersection.

Intersection or street intersection shall mean:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersection highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. (Ord. 15628 §15; July 9, 1990: P.C. §10.04.100: Ord. 8282 §6; December 16, 1963: prior Ord. 5699 §110; April 12, 1954).

10.02.155 Maintenance, Repair, or Construction Zone.

Maintenance, repair, or construction zone shall mean the portion of a street or roadway identified as being under maintenance, repair, or construction by appropriate signs displayed pursuant to the authority of the Director of Public Works and Utilities. The maintenance, repair, or construction zone starts at the location of the first sign identifying the maintenance, repair, or construction zone and continues until an appropriate sign indicates that the maintenance, repair, or construction zone has ended. (Ord. 17227 §1; August 4, 1997).

10.02.160 Median.

Median shall mean that part of a divided street or highway, such as a physical barrier or clearly indicated dividing section or space, so constructed or marked as to impede or prohibit vehicular traffic from crossing or entering within or upon such barrier, section, or space, or to divide such street or highway into two roadways for vehicular travel in opposite directions. (Ord. 15628 §16; July 9, 1990: P.C. §10.04.102: Ord. 12794 §1; December 31, 1979).

10.02.170 Median Crossover.

Median crossover shall mean a connection between roadways of a divided street or highway, the use of which may permit a vehicle to reverse its direction by continuously moving forward. (Ord. 15628 §17; July 9, 1990: P.C. §10.04.103: Ord. 12794 §2; December 31, 1979).

10.02.180 Median Opening.

Median opening shall mean a gap in a median provided for crossing and turning traffic. (Ord. 15628 §18; July 9, 1990: P.C. §10.04.104: Ord. 12794 §3; December 31, 1979).

10.02.190 Minibike.

Minibike shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen inches, or an engine-rated capacity of less than forty-five cubic centimeters displacement, or a seat height of less than twenty-five inches from the ground, or any other two-wheel motor vehicle primarily designed by the manufacturer thereof for off-the-road use only. (Ord. 15628 §19; July 9, 1990: P.C. §10.04.105: Ord. 10479 §1; June 12, 1972).

10.02.195 Mobile Infrared Transmitter.

Mobile infrared transmitter shall mean any device or mechanism that emits an infrared signal or beam with the capability of changing or controlling traffic control devices. (Ord. 18335 §1; April 5, 2004).

10.02.200 Motor Vehicle.

Motor vehicle shall mean all vehicles propelled by any power other than muscular power, except (a) self-propelled invalid chairs, (b) farm tractors, (c) farm tractors used occasionally outside general farm usage, (d) road rollers, (e) vehicles which run only on rails or tracks, and (f) off-road vehicles, including, but not limited to, golf carts, go carts, riding lawnmowers, garden tractors, all-terrain vehicles, and snowmobiles. (Ord. 15628 §20; July 9, 1990: P.C. §10.04.110: Ord. 8117 §1; July 22, 1963: prior Ord. 5699 §111; April 12, 1954).

10.02.210 Motorcycle.

Motorcycle shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor and a minibike. (Ord. 15628 §21; July 9, 1990: P.C. §10.04.111: Ord. 10479 §2; June 12, 1972: prior Ord. 8983 §1; April 11, 1966: Ord. 8926 §2; Feb. 14, 1966).

10.02.220 Motor-driven Cycle.

Motor-driven cycle shall mean every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, and every bicycle with motor attached. (Ord. 15628 §22; July 9, 1990: P.C. §10.04.112: Ord. 8983 §2; April 11, 1966: prior Ord. 8926 §3; February 14, 1966).

10.02.225 Occupant Protection System.

Occupant protection system shall mean a system utilizing a lap belt, a shoulder belt, or any combination of belts installed in a motor vehicle which (a) restrains drivers and passengers and (b) conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.208, 571.209, and 571.210 or to the federal motor vehicle safety standards for passenger restraint systems applicable for the motor vehicle's model year. (Ord. 16293 §1; January 25, 1993).

10.02.230 Official Traffic Control Devices.

Official traffic control devices shall mean all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of the public office having jurisdiction for the purpose of regulating, warning, or guiding traffic. (Ord. 15628 § 23; July 9, 1990: P.C. §10.04.120: Ord. 8282 §7; December 16, 1963: prior Ord. 5699 §112; April 12, 1954).

10.02.240 One-way Street.

One-way street shall mean a street designated as such by authority of Chapter 10.28 or by the public official having jurisdiction over such street, upon which vehicular traffic shall move only in one direction. (Ord. 15628 §24; July 9, 1990: P.C. §10.04.140: Ord. 8282 §8; December 16, 1963: prior Ord. 5699 §114; April 12, 1954).

10.02.250 Park or Parking.

Park and Parking shall mean the standing of a vehicle, whether occupied or not, upon a street, alley, public way, or public owned or operated parking facility, or other public area, otherwise than temporarily for the purpose of and while actually engaged in the loading or unloading, or in obedience to traffic regulations or traffic signs or signals. (Ord. 15628 § 25; July 9, 1990: P.C. §10.04.150: Ord. 11542 §1; December 29, 1975: prior Ord. 8364 §1; April 13, 1964: Ord. 5699 §115; April 12, 1954).

10.02.252 Parking Control Officer

Parking Control Officer shall mean any individual designated by the Director of Urban Development, whether employed or under contract, working under the supervision of the Urban Development Department and conducting the city's parking program for either on-street or off-street enforcement within the Parking Services Enforcement Area. (Ord. 19433 §2; August 26, 2010).

10.02.254 Parking Services Enforcement Area.

The Parking Services Enforcement Area shall include that portion of the city within the following bounds: from the west line of 7th Street east along the south line of H Street to the east line of 17th Street, then north along the east line of 17th Street to the south line of K Street, then east on the south line of K Street to the east line of 21st Street, then north on the east line of 21st Street to the north line of Q Street, then west on the north line of Q Street to the east line of 19th Street, then north on the east line of 19th Street to the north line of R Street, then west on the north line of R Street to the east line of 17th Street, then north on the east line of 17th Street to the north line of X Street, then west on the north line of X Street to the west line of 16th Street, then south on the west line of 16th Street to the north line of W Street, then west on the north line of W Street to the west line of 14th Street, then south on the west line of 14th Street to the north line of R Street, then west on the north line of R Street to the east line of Stadium Drive, then north on the east line of Stadium Drive to the north line of the Salt Creek Roadway, then southwesterly along the north line of the Salt Creek Roadway to the west line of Arena Drive, then south on Arena Drive to the south line of N Street, then east on the south line of N Street to the west line of 7th Street, then south on the west line of 7th Street to the south line of H Street.

The Parking Services Enforcement Area shall also include the following, all of which are within the city boundaries: Transformation Drive east from North Antelope Valley Parkway to a point 347 feet east of

the east curb line of North 21st Street on Transformation Drive; North 19th Street from Transformation Drive south to its terminus; and North 21st Street from Transformation Drive south to Salt Creek Roadway. (Ord. 20166 §1; March 9, 2015; prior Ord. 19433 §3; August 26, 2010).

10.02.260 Passenger Car.

Passenger car shall mean every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons. (Ord. 15628 §26; July 9, 1990: P.C. §10.04.151: Ord. 8594 §1; Nov. 9, 1964).

10.02.270 Pedestrian.

Pedestrian shall mean any person afoot. (Ord. 15628 §27; July 9, 1990: P.C. §10.04.160: Ord. 5699 §116; April 12, 1954).

10.02.280 Police Officer or Traffic Officer.

Police officer or traffic officer shall mean every officer of the Police Department of the city and any person authorized by the city to direct or regulate traffic or make arrests for the violation of traffic regulations. (Ord. 15628 §28; July 9, 1990: P.C. §10.04.170: Ord. 5699 §117; April 12, 1954).

10.02.290 Private Driveway.

Private driveway shall mean every road or driveway not open to the use of the public for purposes of vehicular travel. (Ord. 15628 §29; July 9, 1990: P.C. §10.04.180: Ord. 5699 §118; April 12, 1954).

10.02.300 Right-of-way.

Right-of-way shall mean the privilege of the immediate use of the street. (Ord. 15628 §30; July 9, 1990: P.C. §10.04.190: Ord. 5699 §119; April 12, 1954).

10.02.310 Roadway.

Roadway shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, roadway shall refer to any such roadway separately but not to all such roadways collectively. (Ord. 15628 § 31; July 9, 1990: P.C. §10.04.191: Ord. 8282 §9; December 16, 1963).

10.02.315 School Crossing Zone.

School crossing zone shall mean:

(a) The area of a street or roadway designated by the Director of Public Works and Utilities as a school crossing zone through the use of appropriate signs or traffic control devices; or

(b) A reduced speed zone on streets adjacent to public or private elementary schools or school crossings, as designated pursuant to Section 10.14.260.

A school crossing zone starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended. (Ord. 19971 §2; December 16, 2013: prior Ord. 17227 §2; August 4, 1997).

10.02.320 Semitrailer.

Semitrailer shall mean every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle. (Ord. 15628 §32; July 9, 1990: P.C. §10.04.192: Ord. 8282 §10; December 16, 1963).

10.02.330 Self-propelled Mobile Home.

Self-propelled mobile home shall mean a vehicle with motive power designed for living quarters. (Ord. 15628 §33; July 9, 1990: P.C. §10.04.195: Ord. 12854 §2; February 25, 1980).

10.02.340 Sidewalk.

Sidewalk shall mean that portion of the sidewalk space improved for or used for and by pedestrians. (Ord. 15628 §34; July 9, 1990: P.C. §10.03.200: Ord. 5699 §120; April 12, 1954).

10.02.350 Sidewalk Space.

Sidewalk space shall mean that portion of a street between the curb line and the adjacent property line. (Ord. 15628 §35; July 9, 1990: P.C. §10.04.210: Ord. 5699 §121; April 12, 1954).

10.02.360 Snow Emergency Routes.

Snow emergency routes shall mean those streets established as such in accordance with the provisions of Chapter 10.40 of this title. (Ord. 15628 §36; July 9, 1990: P.C. §10.04.215: Ord. 10311 §1; Dec. 7, 1971).

10.02.365 Snow Removal District.

Snow Removal District shall mean those streets organized as districts as established in Chapter 10.41 of the Lincoln Municipal Code. (Ord. 19467 §1; November 8, 2010).

10.02.370 Snowmobile.

Snowmobile shall mean a self-propelled motor vehicle designed to travel on snow or ice on a natural terrain steered by wheels, skis, or runners and propelled by a belt-driven track with or without steel cleats. (Ord. 15628 §37; July 9, 1990: P.C. §10.04.216: Ord. 10654 §2; January 2, 1973).

10.02.380 Stop.

Stop, when such act is required, shall mean complete cessation of movement. (Ord. 15628 §38; July 9, 1990: P.C. §10.04.220: Ord. 5699 §122; April 12, 1954).

10.02.390 Street or Highway.

Street or highway shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Ord. 15628 §39; July 9, 1990: P.C. §10.04.230: Ord. 8282 §11; December 16, 1963: prior Ord. 5699 §123; April 12, 1954).

10.02.400 Temporary Outside Mirrors and Attachments.

Temporary mirrors and attachments shall mean any extended width mirror and attachment equipment which protrudes more than twelve inches from the outside dimension of any motor vehicle and the use of which is intended to allow the operator of such vehicle to have the required view of the highway to the rear of such vehicle when towing a trailer. (Ord. 15628 §40; July 9, 1990: P.C. §10.04.235: Ord. 10859 §1; July 16, 1973).

10.02.410 Traffic Lane.

Traffic lane shall mean that portion of a street designated by authority of the public official having jurisdiction as a path, track, or passageway within which vehicular traffic shall move. (Ord. 15628 §41; July 9, 1990: P.C. §10.04.240: Ord. 8282 §12; Dec. 16, 1963: Ord. 5699 §124; April 12, 1954).

10.02.420 Trailer.

Trailer shall mean every vehicle without motor power carrying persons or property and being pulled by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle. (Ord. 15628 §42; July 9, 1990: P.C. §10.04.241: Ord. 8282 §13; December 16, 1963).

10.02.430 Truck.

Truck shall include a motor vehicle designed primarily to transport freight or cargo, or a motor vehicle equipped or used primarily to carry anything other than passengers. (Ord. 15628 §43; July 9, 1990: P.C. §10.04.246: Ord. 12854 §3; February 25, 1980).

10.02.440 Truck-tractor.

Truck-tractor shall mean every motor vehicle designed or used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn. (Ord. 15628 §44; July 9, 1990: P.C. §10.04.247: Ord. 12854 §4; February 25,1980).

10.02.450 Vehicle.

Vehicle shall mean all conveyances for persons or property, except trains running upon their own tracks, and motor-powered equipment, equipped with motors of not more than eight horsepower, used for the removal of snow and for cleaning sidewalks. (Ord. 15628 §45; July 9, 1990: P.C. §10.04.250: Ord. 5699 §125; April 12, 1954).

10.02.460 Viaduct.

Viaduct shall mean a bridge-like structure carrying one roadway over another roadway or railway right-of-way. (Ord. 15628 §46; July 9, 1990: P.C. §10.04.260: Ord. 5699 §126; April 12, 1954).

10.02.470 Vendor's Truck.

Vendor's truck shall mean and include every vehicle in which prepared foods, including but not limited to, frozen dairy products, ice flavored with syrup, confectionery, sandwiches, or soft drinks are carried for purposes of retail sale on the roadways of the city. (Ord. 15628 §47; July 9, 1990: P.C. §10.04. 270: Ord. 13406 §2; June 7, 1982).

10.02.480 Vend or Vending.

Vend or vending shall mean the offering of prepared food products, including but not limited to, frozen dairy products, ice flavored with syrup, confectionery, sandwiches, or soft drinks for sale from a vehicle on the roadways of the city. (Ord. 15628 § 48; July 9, 1990: P.C. §10.04.280: Ord. 13406 §3; June 7, 1982).

10.02.490 Definitions; Application.

The definitions provided in this chapter shall, where not otherwise provided, apply wherever such terms are used in Title 10 unless the context plainly requires otherwise. (Ord. 15628 §49; July 9, 1990).

Chapter 12.08

GENERAL RULES AND REGULATIONS

Sections:

12.08.010 Definitions.
12.08.020 Vehicles in Parks.
12.08.050 Operation of Moped; Definition.
12.08.060 Speed Limit in Parks.
12.08.070 Unlawful to Be in Park or Park Facility After Hours; Closing Hours; Entering Closed Area.
12.08.080 Animals in Parks.
12.08.090 Parking of Vehicles; Authorized Areas.
12.08.100 Parking of Vehicles After Hours Prohibited.
12.08.110 Responsibility of Owner of Parked Vehicle.
12.08.120 Impounding Vehicles.
12.08.130 Payment in Violations Bureau.
12.08.140 Travel Trailers in Parks.
12.08.160 Advertising in Parks.
12.08.170 Destruction of Park Property.
12.08.180 Animals Running at Large.
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12.08.270 Alcoholic Liquor Prohibited; Exceptions and Permit Requirements.
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12.08.290 Hitting Golf Balls Prohibited Except at Golf Courses.
12.08.300 Permit for Special Use of Park or Park Facility.
12.08.310 License for Long-Term or Multiple Use of Park or Park Facility.
12.08.320 Permit to Conduct Business on Park Property.
12.08.330 Rules and Regulations.
12.08.340 Penalty.

12.08.010 Definitions.

For the purpose of Title 12, the following definitions are applicable:

Director shall mean the head of the Parks and Recreation Department as designated by the Mayor.

Fireworks shall mean any combustible or explosive composition, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation.

Hiker-Biker trail shall mean a pathway within a park for recreational use.

Motor vehicle shall mean and include any vehicle propelled by power other than muscular power.

Multi-use trails shall mean the interconnected system of trails for transportation and recreational use.

Park shall mean and include any area of public ground dedicated as a park or held for the enjoyment of the public and managed and maintained by the Parks and Recreation Department within or without the limits of the city which is under the city ownership or control.

Park facility shall mean and include any swimming pool, recreation center, or any other building or facility held for the enjoyment of the public and managed and maintained by the Parks and Recreation Department within or without the limits of the city which is under the city ownership or control.

Roadway shall mean and include every way open to the use of the public for vehicular travel, including any street or highway of the city in or through any park as herein defined, and including any park drive, parkway, and park boulevard open to the public for vehicular travel. This definition shall not include the multi-use trails or the hiker-biker trails within any park. (Ord. 19819 §1; December 17, 2012: prior Ord. 19716 §1; May 21, 2012: Ord. 13204 § 1; September 14, 1981: Ord. 9078 § 1; August 22, 1966: Ord. 3489 § 30-101, as amended by Ord. 5775; July 12, 1954).

12.08.020 Vehicles in Parks.

Except for personnel assigned to work in a park and individuals with mobility disabilities utilizing wheelchairs or other power-driven mobility devices per approved rules and regulations, it shall be unlawful for any person to operate any motor vehicle in or through any park except on a roadway. The operation of any motor vehicle on a roadway shall be

subject to all of the provisions of Title 10 and to such rules and regulations as may be promulgated by the Director and approved by the Mayor. All such rules and regulations shall be filed with the office of the City Clerk, and when so filed they shall be in full force and effect. (Ord. 19716 §2; May 21, 2012: prior Ord. 13204, § 2; September 14, 1981: Ord. 9078 § 2; August 22, 1966: Ord. 3489 § 30-102, as amended by Ord. 5775; July 12, 1954).

12.08.050 Operation of Moped; Definition.

It shall be unlawful for a person to operate a moped in or through any park except on a roadway. The operation of any moped on a roadway shall be subject to all of the provisions of Title 10 and to such rules and regulations as may be promulgated by the Director and approved by the Mayor. All such rules and regulations shall be filed with the office of the City Clerk, and when so filed they shall be in full force and effect.

"Moped," for the purposes of this ordinance, shall be defined as a vehicle capable of being powered by either muscular power or an engine at the discretion of the operator. (P.C. § 12.08.023: Ord. 13204 § 4; September 14, 1981).

12.08.060 Speed Limit in Parks.

It shall be unlawful for any person to drive, operate, or propel over or along any park roadway, hiker-biker trail, or the multi-use trails any vehicle, motor vehicle, moped, bicycle, or tricycle, or to drive or ride any horse or other animal at a greater speed than twenty-five miles per hour. The Director may authorize regulations requiring a speed lower than twenty-five miles per hour on any park roadway, hiker-biker trail, or the multi-use trails or segment thereof. Such regulations shall be approved by the Mayor and filed with the office of the City Clerk. Such lower speed limits shall be posted along the portion so regulated, and upon such posting shall be in full force and effect. (Ord. 19819 §4; December 17, 2012: P.C. § 12.08.030: Ord. 13204 § 5; September 14, 1981: Ord. 3489 § 30-103, amended by Ord. 5775; July 12, 1954).

12.08.070 Unlawful to Be in Park After Hours; Closing Hours; Entering a Closed Area.

(a) It shall be unlawful for any person to occupy or be present in any park or park facility during any hours during which said park or park facility is not open to the public.

(b) Subject to the provisions of subparagraphs (c), (d), (e), (f), and (g) of this section, all parks shall be opened daily to the public during the hours of 5:00 a.m. to 11:00 p.m., except Wilderness Park which shall be open from sunrise to sunset, Pioneers Park which shall be open from 6:00 a.m. to 11:00 p.m. during daylight savings time and from 7:00 a.m. to sunset during the remainder of the year, and Bill Harris Iron Horse Park and Lincoln Community Foundation Tower Square which shall be open from 6:00 a.m. to 2:00 a.m.

(c) Organized events and activities authorized by the Director of Parks and Recreation, such as outdoor athletic competitions, may extend beyond regular park closing hours but shall not extend beyond 12:00 midnight.

(d) Multi-use trails and the sidewalks on Centennial Mall shall be open twenty-four hours a day. Hiker-biker trails within parks shall be open the same hours as the associated park area.

(e) The Director of Parks and Recreation may temporarily authorize an extension of the hours during which a park shall be open to the public. Such authorization shall be in writing and shall specify the extended hours, the dates during which such extended hours shall be in effect, and the specific park or parks to which such temporarily extended hours shall apply.

(f) Any park may be declared closed to the public by the Mayor or Director of Parks and Recreation at any time or at regular or stated intervals when necessary for:

(1) the care and maintenance of the park; or

(2) the health, safety and welfare of the public; or

(3) the protection or preservation of park property. When so closed, the Director shall cause notice to be posted at the entrance to said park to notify the public that the park is closed, and when so posted it shall be unlawful for any person to enter said park; and it shall be unlawful for any person to remain in said park after oral notice by the Director, or any law enforcement officer or other duly authorized representative of the Director that said park is closed, regardless of whether or not the notice has been posted. Such authorization for the closing shall be in writing.

(g) Any extension or reduction of park hours by the Director of Parks and Recreation shall be reported

to the Parks and Recreation Advisory Board at their next regularly scheduled meeting.

(h) Any person who shall violate any provision of this section shall be deemed guilty of an infraction and upon conviction shall be punished by a fine of not more than $100.00, recoverable with costs. (Ord. 20189 § 1; April 27, 2015: prior Ord. 20087 §1; August 25, 2014:Ord. 19821 §1; January 14, 2013: Ord. 19819 §5; December 17, 2012: Ord. 19716 §3; May 21, 2012: Ord. 18147 §1; March 10, 2003: Ord. 17640 §1; March 20, 2000: Ord. 15947 §1; August 19, 1991: P.C. § 12.08.035: Ord. 15191 §1 May 15, 1989: Ord. 10685 § 1; February 12, 1973).

12.08.080 Animals in Parks.

It shall be unlawful for any person to drive, ride, or lead any horse in or through any park except upon roadways or paths designated by the Director. (P.C. § 12.08.040: Ord. 13204 § 6; September 14, 1981: prior Ord. 9078 § 3; August 22, 1966: Ord. 8171 § 1; September 3, 1963: Ord. 3489 § 30-104 as amended by Ord. 5775; July 12, 1954).

12.08.090 Parking of Vehicles; Authorized Areas.

It shall be unlawful for any person to park or permit to be parked any motor vehicle or other vehicle anywhere in any park except upon parking areas designated by the Director and upon roadways where parking is not prohibited by the Director. (P.C. § 12.08.050: Ord. 9078 § 4; August 22, 1966: prior Ord. 8171 § 2; September 3, 1963: Ord. 3489 § 30-105, as amended by Ord. 5775; July 12, 1954).

12.08.100 Parking of Vehicles After Hours Prohibited.

No person shall park or permit to be parked any motor vehicle in any public park during the hours when said park is not open to the public. For purposes of enforcement of this section, the Director of Parks shall cause an appropriate sign to be posted at or near the entrance to said park or at or near the parking area affected by this section. (P.C. § 12.08.055: Ord. 10945 § 1; November 13, 1973).

12.08.110 Responsibility of Owner of Parked Vehicle.

If any vehicle is found in any park in violation of any of the provisions of this chapter regulating the parking of vehicles, and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. (P.C. § 12.08.056: Ord. 10945 § 1; November 13, 1973).

12.08.120 Impounding Vehicles.

In addition to any other penalties provided by Title 12, the provisions of Chapter 10.44 of this code, regarding the impounding of vehicles shall apply to any vehicle found by a police officer to be in violation of any provisions of this chapter. (P.C. § 12.08.057: Ord. 10945 § 1; November 13, 1973).

12.08.130 Payment in Violations Bureau.

The provisions of Chapter 10.06 of this code, regarding the penalties for violation of motor vehicle parking ordinances, and the issuance and payment of parking violation tags or notices, shall apply to parking violation tags or notices issued pursuant to any provision of this chapter. (P.C. § 12.08.058: Ord. 10945 § 1; November 13, 1973).

12.08.140 Travel Trailers in Parks.

It shall be unlawful for any person to park or leave standing any travel trailer unattached to a motor vehicle in any park at any time, and it shall be unlawful for any person to permit any travel trailer to be or remain in any park between the hours of 10 p.m. and 7 a.m. (Ord. 19818 §6; December 17, 2012: P.C. § 12.08.060: Ord. 3489 § 30-106, as amended by Ord. 5775; July 12, 1954).

12.08.160 Advertising in Parks.

It shall be unlawful for any person to place or erect any structure, sign, bulletin board, post, pole, or advertising device of any kind whatever in any park, or in any median islands in the public right-of-way and maintained by the city, or to attach any notice, bill, poster, sign, wire, rope, or cord to any tree, shrub, fence, railing, post, or structure in such areas, except as authorized by the Director in writing in accordance with rules and regulations that may be promulgated by the Director, approved by the Mayor, and filed with the office of the City Clerk. (Ord. 19959 §1; December 16, 2013: P.C. § 12.08.080: Ord. 13204 § 7; September 14, 1981: Ord. 9078 § 5; August 22, 1966: Ord. 8171 § 3; September 3, 1963: Ord. 3489 § 30-108, as amended by Ord. 5775; July 12, 1954).

12.08.170 Destruction of Park Property.

It shall be unlawful for any person to remove, destroy, mutilate, or deface any structure, monument,

statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower, or other property in any park or park facility. (Ord. 19716 §4; May 21, 2012: P.C. § 12.08.090: Ord. 3489 § 30-109, as amended by Ord. 5775; July 12, 1954).

12.08.180 Animals Running at Large.

It shall be unlawful for any person to allow or permit any dog or other animal to run at large in any park, or to enter any of the lakes, ponds, fountains, or streams therein.

For the purposes of this section, the term "at large" is defined to mean not under the control of a person either by leash, cord, chain, or confinement within a vehicle or pen or other similar enclosure.

Notwithstanding the foregoing, the Director of the Parks and Recreation Department may designate certain areas to allow dogs to run at large. (P.C. § 12.08.100: Ord. 11291 § 1; March 3, 1975: prior Ord. 10867 § 1; July 23, 1973: Ord. 3489 § 30-110, as amended by Ord. 5775; July 12, 1954).

12.08.190 Ornamentations; Trespass.

It shall be unlawful for any person to walk, stand, sit, or climb any border, flower bed, monument, vase, fountain, railing, or fence or climb any building, sign, tree, lightpole, or cage in any park. (P.C. § 12.08.110: Ord. 13204 § 8; September 14, 1981: prior Ord. 3489 § 30-111, as amended by Ord. 5775; July 12, 1954).

12.08.200 Weapons Prohibited in Parks and Park Facilities.

(a) It shall be unlawful for any person to possess or discharge, or cause to be discharged, within any park or park facility, any firearm, including, but not limited to, any pistol, revolver, shotgun, or rifle.

(b) It shall be unlawful for any person to possess or discharge, or cause to be discharged, within any park or park facility, any air rifle, bow and arrow, crossbow, toy pistol, toy gun, slingshot, or any other air, gas, manually operated or spring operated gun, weapon, apparatus, or instrument designed or intended to be used for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether the instrument is called by any name set forth above or by any other name.

(c) Notwithstanding the foregoing, the Director of the Parks and Recreation Department may designate areas in certain parks and park facilities to allow various organized programs to engage in the activities described herein.

(d) The provisions of subsections (a) and (b) of this section shall not apply to duly authorized Parks and Recreation Department employees or law enforcement officers acting in the course of their duty. (Ord. 19959 §2; December 16, 2013: prior Ord. 17365 §1; June 29, 1998: P.C. § 12.08.120: Ord. 12600 § 1; June 25, 1979: Ord. 10868 § 1; July 23, 1973: Ord. 3489 § 30-112, as amended by Ord. 5775; July 12, 1954).

12.08.210 Fireworks Prohibited in Parks.

It shall be unlawful for any person to discharge, shoot, fire, or explode, or cause to be discharged, shot, fired, or exploded any rockets, powder, fireworks, or other dangerous and combustible material at any time within any parks. Notwithstanding the foregoing, the Director may allow public fireworks displays to be conducted in any park, pursuant to Section 9.44.090 of the Lincoln Municipal Code. (P.C. § 12.08.125: Ord. 13204 § 9; September 14, 1981).

12.08.220 Molesting Animals.

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest, catch, injure, kill, or remove from any park any animals, including birds, reptiles, amphibians, mammals, and fish; provided, that it shall not be unlawful to catch fish pursuant to state fishing laws in city-owned ponds, lakes, and waterways, except those located within golf courses. Nothing in this section shall prevent an appropriately authorized city employee from catching or removing any animal from any park while in the performance of his/her official duties. (P.C. § 12.08.130: Ord. 13204 § 10; September 14, 1981: prior Ord. 3489 § 30-113, as amended by Ord. 5775; July 12, 1954).

12.08.230 Selling, Peddling, etc.

It shall be unlawful for any person to have any commercial activity within any park, park facility, or on any roadway within any park, except as authorized by a permit to conduct business on park property pursuant to Section 12.08.320 of this chapter. (Ord. 19819 §6; December 17, 2012: prior Ord. 17640 §3; March 20, 2000: P.C. § 12.08.140: Ord. 9078 § 6; August 22, 1966: Ord. 8171 § 4; September 3, 1963: Ord. 3489 § 30-114, as amended by Ord. 5775; July 12, 1954).

12.08.240 Fastening or Hitching Animals.

It shall be unlawful for any person to hitch any horse or other animal to any tree, shrub, fence, railing, or other structure, except such as are provided for that purpose, or to allow any horse or other animal to remain unhitched beyond the reach of the driver or attendant in any park. (P.C. § 12.08.160: Ord. 3489 § 30-116 amended by Ord. 5775 July 12, 1954).

12.08.250 Games of Chance.

It shall be unlawful for any person to conduct or carry on any game of chance in any park or park facility; provided, however, the Director may approve the conduct of bingo occasions by organizations permitted by state law to conduct such bingo occasions. All such bingo occasions shall be conducted in full compliance with applicable state law. The Director may at any time revoke an approval given hereunder when such action is deemed to be in the best interests of the city. (Ord. 19959 §3; December 16, 2013: P.C. § 12.08.170: Ord. 13760 § 1; February 13, 1984: Ord. 3489 § 30-117, amended by Ord. 5775; July 12, 1954).

12.08.260 Disorderly Conduct.

It shall be unlawful for any person to conduct or carry on any boisterous or insulting language, or to be guilty of any disorderly, lewd, or lascivious conduct of any kind in any park or park facility. (Ord. 19959 §4; December 16, 2013: P.C. § 12.08.180: Ord. 3489 § 30-118, as amended by Ord. 5894; October 25, 1954).

12.08.270 Alcoholic Liquor Prohibited; Exceptions and Permit Requirements.

It shall be unlawful for any person to consume or to possess any alcoholic liquor in any park or park facility; provided, however, the above prohibition shall not apply to the following as they may be properly licensed or permitted according to the Nebraska Liquor Control Act:

(a) The retail licensed premises consisting of the clubhouse area of golf courses and outdoor areas of any 18-hole golf course;

(b) The premises of the Lincoln Children's Zoo and the Lincoln Children's Museum in conjunction with fundraising activities occurring when the zoo or museum are not otherwise open to the public;

(c) The premises of Hazel Abel Park, Stransky Park, Sunken Gardens, Antelope Park Rose Garden, and Pioneers Park Nature Center, in conjunction with fundraising activities sponsored by and for the Parks and Recreation Department or by non-profit organizations specifically organized to benefit any city department. Fundraising activities shall be allowed to occur only where the premises or the area of the activity is not otherwise open to the public; and

(d) The premises of Pinewood Bowl for Parks and Recreation Department sponsored events. (Ord. 19959 §4; December 16, 2013: prior Ord. 19818 §7; December 17, 2012: Ord. 19579 §1; July 25, 2011: Ord. 19120 §1; August 11, 2008: Ord. 18395 §1; June 28, 2004: Ord. 18260 §1; November 3, 2003: Ord. 17797 §1; February 26, 2001: P.C. § 12.08.190: Ord. 14482 § 1; August 25, 1986: Ord. 3489 § 3119, amended by Ord. 5894; October 25, 1954).

12.08.280 Rules and Regulations; Waterways.

(a) The Director may authorize regulations permitting wading, swimming, bathing, wind sailing, ice skating, water skiing, and the use of any flotation device on all or any portion of any pond, lake, or drainage area within any park. Such regulations may include permission for such water-related recreational activities in all such areas or any portion of any specific area within any park and may provide for general conditions for specific water-related recreational activities, which shall be posted at such areas or at the entrance to such park.

(b) All such rules and regulations shall be approved by the Mayor. The Director shall file all rules and regulations with the office of the City Clerk and when so filed they shall be in full force and effect; provided, when such water-related recreational activities are permitted in any pond, lake, or drainage area of any park, it shall be sufficient that notice be posted at the entrance to such park, or at designated areas within the park indicating the permissible area of such activity.

(c) Any person who shall wade, swim, bathe, wind sail, ice skate, water ski, or use any flotation device on any pond, lake, or drainage area within any park, unless the Director shall have given permission for such activity in the specific pond, lake, or drainage area or portion thereof as posted, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in the penalty provision of this chapter. (P.C. § 12.08.191: Ord. 13204 § 11; September 14, 1981).

12.08.290 Hitting Golf Balls Prohibited Except at Golf Courses.

No person shall hit a golf ball in any park; provided, however, that this section shall not apply to anyone hitting a golf ball on a golf course or driving range in conformity with the rules of the United States Golf Association. (P.C. § 12.08.192: Ord. 13204 § 12; September 14, 1981).

12.08.300 Permit for Special Use of Park or Park Facility.

(a) Notwithstanding other provisions of this chapter, the Mayor or Director may grant the special use of any park or park facility or portion thereof for a limited period of time. A permit of this nature shall not be required for rental of certain park facilities or certain uses as designated by the Director by the approved rules and regulations.

(b) The person or organization seeking such permit shall file a written application with the Parks and Recreation Department, upon a form to be furnished by the city. No permit shall be granted if the application is not fully completed and executed. The permit application shall set forth the following:

(1) The name, address, and telephone number of the person filing the application;

(2) The name, address, and telephone number of the headquarters of the organization, if an organization is involved, and of the persons who manage such organization who will oversee the use requested;

(3) The exact use for which the permit is requested;

(4) The park or park facility or portion thereof requested for such use;

(5) The dates and hours for which the use is requested;

(6) The number of persons expected to attend;

(7) If applicable, the number and types of vehicles expected, and the estimated time of arrival of all vehicles;

(8) An agreement to indemnify, save, and keep the city free and harmless from any and all loss or damages or claims, including attorney's fees and litigation costs, for damages arising from or out of such use;

(9) An agreement to comply with all related municipal ordinances, rules, regulations, and other applicable laws;

(10) A description, including the attachment, support, construction, and design of all signs and banners, subject to approval by the city as required by the rules and regulations; and

(11) Such other pertinent information as may be requested.

(c) The applicant shall, at the time of making application, pay to the city the uniform permit fee and facility fee based on the fee schedule determined by the Director and Mayor for all permits, which permit fee shall be used to defray the costs related to the issuance of such permit. Admission fees, if any, to any event shall be subject to the approval of the Director. A permit fee shall not be charged if an event is co-sponsored in partnership with the city or an event is in conjunction with fundraising activities sponsored by and for the city or by non-profit organizations specifically organized to benefit the city. The Director shall develop rules and regulations regarding approval of co-sponsorship of events.

(d) The applicant shall maintain public liability insurance for the duration of the permit in a suitable policy form with a minimum combined single limit of $1,000,000 aggregate for any one occurrence, naming the city as an additional insured. The applicant shall file a certificate of insurance with the Director at the time of making application showing:

(1) A valid and effective policy or policies of insurance issued by an insurance company authorized to do business in the State of Nebraska;

(2) The limits of each policy;

(3) The policy number;

(4) The name of the insurer;

(5) The effective date and expiration date of each policy;

(6) The deductibles or self-insurance retainers of each policy;

(7) That the city is named as an additional insured; and

(8) That the Director will be notified thirty days in advance of cancellation or material change to the insurance for any reason.

The applicant shall provide the declarations page or a copy of any policy, complete with endorsements, upon the request of the Director. Any termination, lapse, or reduction of such insurance shall automatically revoke any permit issued pursuant to this section. Waiver of the liability insurance shall be permitted provided the applicant provides written evidence of indigency and the activity is protected by

the First Amendment of the United States Constitution. A waiver shall only be permissible for those permits involving use of open park land, not for use of park facilities, or for such events for which an admission fee is charged.

(e) The Director may, as part of such permit, include such conditions as the Director deems necessary for the preservation of the public health, safety, and welfare and for the protection of the park or park facility to be utilized. No applicant shall represent, advertise, promote, or otherwise publish any claim whatsoever related to city endorsement or sponsorship of the event unless authorized by the city in writing.

(f) No permit shall be issued if the Director finds that the proposed use:

(1) Will cause unreasonable injury or damage to the park or park facility requested;

(2) Conflicts with a prior permit, or a prior application that is likely to be granted, for the same park or park facility and for the same time;

(3) Will continue for a duration of such a length as may interfere with use of the park or park facility by the public, including any set-up or tear-down time;

(4) Will involve such a number of persons or activities as will exceed the reasonable capacity of the park or park facility requested;

(5) Will interfere with the provision of proper fire and police protection to the area adjacent to the park or park facility requested;

(6) Will adversely affect adjacent or neighboring properties by causing excessive noise or creating a nuisance;

(7) Will unreasonably interfere with the safe, orderly, and expeditious movement of vehicular or pedestrian traffic; or

(8) Will fail to comply in any respect with the provisions of this chapter or any other applicable law or rules or regulations adopted by the Director.

No permit shall be issued to any applicant that has unpaid or past due fees under this chapter for any prior permit, rental, or license application. Any permit may be revoked for violation of the above requirements or if the use is not conducted in a manner consistent with the representations set forth in the application or in any previous applications by the same applicant. The reason for the denial or revocation shall be provided in writing to the person or organization. A new application must be submitted if any change is made from the application as previously submitted and approved.

(g) Any person or organization aggrieved by any denial or revocation of a permit by the Mayor or Director may appeal such determination to the City Council by setting forth the details of such grievance in a letter to the Council with a copy to the Mayor. Not less than ten days after the filing of such letter, such person or organization shall personally appear before the Council to show why such person is aggrieved and why and how such determination should be modified or reversed by the Council. The City Council shall then make a final determination of the matter in controversy at or before its next regular weekly meeting and shall sustain, modify, or reverse the determination made by the Mayor or Director. (Ord. 19959 §6; December 16, 2013: P.C. § 12.08.195: Ord. 15654 § 1; July 9, 1990: Ord. 12013 § 1; June 27, 1977: Ord. 10293 § 1; November 1, 1971: Ord. 10003 § 1; June 29, 1970).

12.08.310 License for Long-Term or Multiple Use of Park or Park Facility.

(a) Notwithstanding other provisions of this chapter, the Director may grant a license for the long-term or multiple use, not to exceed one year, of Pinewood Bowl, or any athletic field, practice field, municipal swimming pool, or similar park facility to any person, persons, or organization for the purpose of holding any athletic exhibition, sports event, recreational activity, musical concert, play, show, or similar activity for which admissions may be charged.

(b) The person or organization seeking such license shall file a written application with the Parks and Recreation Department, upon a form to be furnished by the city. No license shall be granted if the application is not fully completed and executed. The license application shall set forth the following:

(1) The name, address, telephone number of the licensee, and the name of the persons who will oversee the use requested;

(2) The name, address, and telephone number of the headquarters of the organization, if an organization is involved, and of the persons who manage such organization who will oversee the use requested;

(3) The exact use for which the license is requested;

(4) The park facility requested for such use;

(5) The dates and hours for which the use is requested;

(6) The number of persons expected to attend;

(7) If applicable, the number and types of vehicles expected, and the estimated time of arrival of all vehicles;

(8) An agreement to indemnify, save, and keep the city free and harmless from any and all losses, or damage, or claims, including attorney's fees and litigation costs, for damages arising from or out of such use;

(9) An agreement to comply with all related municipal ordinances, rules, regulations and other applicable laws;

(10) A description, including the attachment, support, construction, and design of all signs and banners, subject to approval by the city as required by the rules and regulations; and

(11) Such other pertinent information or agreements as may be requested.

(c) The applicant shall, at the time of making application, pay to the city the uniform license facility fee based on the fee schedule determined by the Director and Mayor for all licenses, which license fee shall be used to defray the costs related to the issuance of such license. Admission fees, if any, to an event shall be subject to the approval of the Director. The Director shall develop rules and regulations regarding approval of co-sponsorship of events.

(d) The applicant shall maintain public liability insurance for the duration of the license in a suitable policy form with a minimum combined single limit of $1,000,000 aggregate for any one occurrence, naming the city as an additional insured. The applicant shall file a certificate of insurance with the Director at the time of making application showing:

(1) A valid and effective policy or policies of insurance issued by an insurance company authorized to do business in the State of Nebraska;

(2) The limits of each policy;

(3) The policy number;

(4) The name of the insurer;

(5) The effective date and expiration date of each policy;

(6) The deductibles or self-insurance retainers of each policy;

(7) That the city is named as an additional insured; and

(8) That the Director will be notified thirty days in advance of cancellation or material change to the insurance for any reason.

The applicant shall provide the declarations page or a copy of any policy, complete with endorsements, upon the request of the Director. Any termination, lapse, or reduction of such insurance shall automatically revoke any license issued pursuant to this section.

(e) The Director may, as part of such license, include such conditions as the Director deems necessary for the preservation of the public health, safety, and welfare and for the protection of the park or park facility to be utilized. No applicant shall represent, advertise, promote, or otherwise publish any claim whatsoever related to city endorsement or sponsorship of the event unless authorized by the city in writing.

(f) No license shall be issued if the Director finds that the proposed use:

(1) Will cause unreasonable injury or damage to the park or park facility requested;

(2) Conflicts with a prior license, or a prior application that is likely to be granted, for the same park space or facility and for the same time;

(3) Will continue for a duration of such a length as may interfere with use of the park or park facilities by the public;

(4) Will involve such a number of persons or activities as will exceed the reasonable capacity of the park or park facility requested;

(5) Will interfere with the provision of proper fire and police protection to the area adjacent to the park or park facility requested;

(6) Will adversely affect adjacent or neighboring properties by causing excessive noise or creating a nuisance;

(7) Will unreasonably interfere with the safe, orderly, and expeditious movement of vehicular or pedestrian traffic; or

(8) Will fail to comply in any respect with the provisions of this chapter or any other applicable law or rules or regulations adopted by the Director.

No license shall be issued to any applicant that has unpaid or past due fees under this chapter for any prior permit, rental or license application. Any license may be revoked for violation of the above requirements or if the use is not conducted in a manner consistent with the representations set forth in the application or in any previous applications by the same applicant. A new application must be submitted if any change is made from the application as previously submitted and approved.

(g) Any person or organization aggrieved by any denial or revocation of a license of the Mayor or Director may appeal such determination to the City Council by setting forth the details of such grievance in a letter to the City Clerk with a copy to the Mayor. Not less than ten days after the filing of such letter, such person or organization shall personally appear before the Council to show why such person is aggrieved and why and how such determination should be modified or reversed by the Council. The City Council shall then make a final determination of the matter in controversy at or before its next regular weekly meeting and shall sustain, modify, or reverse the determination made by the Mayor or Director. (Ord. 19959 §7; December 16, 2013: prior Ord. 17640 §4; March 20, 2000: P.C. § 12.08.196: Ord. 12212 § 1; February 27, 1978: Ord. 11915 § 1; March 11, 1977).

12.08.320 Permit to Conduct Business on Park Property.

(a) Notwithstanding other provisions of this chapter, the Director is authorized to grant a permit to conduct business upon property under the control of the Parks and Recreation Department for the purpose of selling refreshments, equipment rentals, sales of merchandise related to a special event, collection of admission fees, collection of donations, or other services which would further the public use and enjoyment of the parks and park facilities. Such permit shall be granted as a privilege only and subject to revocation by the city at any time, and provided, further, that no concession shall be granted which would unreasonably interfere with the use of parks or park facilities by the public. A permit may be granted in conjunction with a permit for special use of park property or license or may be granted independently. Any permit granted which allows the sale of food, beverage, or food- or beverage-related items shall be subject to all applicable health regulations.

(b) The person or organization seeking permission for a permit to conduct business on park property shall file an application with the Parks and Recreation Department, upon a form to be furnished by the city. No permit shall be granted if the application is not fully completed and executed. The permit application shall set for the following:

(1) The name, address, and telephone number of the person filing the application;

(2) The name, address, and telephone number of the headquarters of the organization, if an organization is involved, and of the persons who manage such organization who will oversee the business activity;

(3) The activity which is proposed;

(4) The park or park facility or portion thereof requested for such activity;

(5) The dates and hours for which the activity is requested;

(6) An agreement to save, indemnify and keep the city free and harmless from any and all loss or damages or claims, including attorney's fees and litigation costs, arising from or out of such activity;

(7) An agreement to comply with all related municipal ordinances, rules, regulations and other applicable laws; and

(8) Such other pertinent information, insurance or agreements as may be requested.

(c) The applicant shall, at the time of making application, pay to the city a uniform permit fee to be determined by the Director and Mayor for all permits, which fee shall be used to defray the costs related to the issuance of such a permit, unless the applicant is involved in business activities as part of an event co-sponsored by the city.

(d) The Director may, as part of such permit, include such conditions as the Director deems necessary for the preservation of the public health, safety, and welfare and for the protection of the park or park facility to be utilized, including the requirement of signed waivers from all participants in recreational activities. A permit shall not constitute city endorsement or sponsorship of the use unless the activity is co-sponsored, and no applicant shall represent, advertise, promote, or otherwise publish any claim whatsoever related to city endorsement or sponsorship of the activity unless authorized by the city in writing.

(e) No permit shall be issued if the Director finds that the proposed use:

(1) Will cause unreasonable injury or damage to the park or park facility requested;

(2) Conflicts with a prior permit, or a prior application that is likely to be granted, for the same park space or facility and for the same time;

(3) Will continue for a duration of such a length as may interfere with use of the park or park facilities by the public, including any set-up or tear-down time;

(4) Will involve such a number of persons or activities as will exceed the reasonable capacity of the park or park facility requested;

(5) Will interfere with the provision of proper fire and police protection to the area adjacent to the park or park facility requested;

(6) Will adversely affect adjacent or neighboring properties by causing excessive noise or creating a nuisance;

(7) Will unreasonably interfere with the safe, orderly, and expeditious movement of vehicular or pedestrian traffic; or

(8) Will fail to comply in any respect with the provisions of this chapter or any other applicable law or rules or regulations adopted by the Director.

No permit shall be issued to any applicant that has unpaid or past due fees under this chapter for any prior permit, rental or license application. Any permit may be revoked for violation of the above requirements or if the use is not conducted in a manner consistent with the representations set forth in the application or in any previous applications by the same applicant. A new application must be submitted if any change is made from the application as previously submitted and approved. (Ord. 19959 §8; December 16, 2013: prior Ord. 17640 §5; March 20, 2000: P.C. § 12.08.197: Ord. 11915 § 2; March 11, 1977).

12.08.330 Rules and Regulations.

In addition to the specific authorizations aforementioned, the Director is authorized to promulgate rules and regulations governing the use or activities in any park for the health, safety, and welfare of the public provided that such rules and regulations shall not be inconsistent with the Charter or with the Lincoln Municipal Code. Such regulations shall be approved by the Mayor and filed with the office of the City Clerk, and when so filed they shall be in full force and effect. (P.C. § 12.08.200: Ord. 13204 § 14; September 14, 1981: prior Ord. 9078 § 7; August 22, 1966: Ord. 8171 § 5; September 3, 1963: Ord. 3489 § 30-120, as amended by Ord. 5775; July 12, 1954).

12.08.340 Penalty.

Any person who shall violate any provision of Title 12 or any rule or regulation adopted hereunder for which a penalty is not otherwise specifically provided shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the city jail for a period of not to exceed six months, or by a fine of not to exceed $500.00, recoverable with costs, or both. Each day that a violation of this title or of the rules and regulations promulgated hereunder continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 20189 §2; April 27, 2015; P.C. § 12.08.210: Ord. 13204 § 15; September 1, 1981).

[Chapter 12.12 - Policing Parks Outside City
Repealed by Ord. 19819 §7, December 27, 2012; prior Ord. 3489 § 30-201; July 6, 1936]

Chapter 12.20

TREES AND SHRUBBERY

Sections:

12.20.010 Statement of Intent.
12.20.020 Master Street Tree Plan; Director Defined.
12.20.021 Landscape Plantings Within the Sidewalk Space.
12.20.025 Street Trees on Private Property.
12.20.030 Maintenance of Street Trees.
12.20.035 Maintenance of Landscape Plantings Within the Sidewalk Space.
12.20.040 Application for Permit.
12.20.050 Issuance of Permit; Requirements Pertaining to Planting, Maintaining, Removal, and Destruction.
12.20.060 Work Ordered or Done by the City.
12.20.070 Height and Spread Limitations for Landscape Plantings Within the Sidewalk Space; Special Assessment for Failure to Maintain.

12.20.010 Statement of Intent.

The selection, planting, maintenance, and removal of trees and ornamental plantings along public ways within the City of Lincoln substantially affect such matters as pedestrian and vehicle safety, the location and maintenance of utility services, tree maintenance costs, the incidence of tree diseases, and the general appearance of the cityscape; therefore, it is hereby found and determined that such selection, planting, maintenance, and removal are matters of city-wide concern over which the city must exercise the control set forth in this chapter. (Ord. 18168 §1; April 28, 2003: P.C. §12.20.005: Ord. 10129 §1; March 22, 1971).

12.20.020 Master Street Tree Plan; Director Defined.

The Director shall prepare and maintain a "Master Street Tree Plan" for the city, showing thereon the genus, species, and variety of trees which may hereafter be planted in or upon any street, parkway, sidewalk space, or other public way within the city, and all such tree planting shall conform to such plan. A current copy of such plan shall be made available for inspection by the public at the office of the Director.

The term "Director" whenever used in this chapter shall mean the Director of Parks and Recreation of the City of Lincoln, Nebraska, or his authorized deputy, agent, or representative. (P.C. §12.20.007: Ord. 10129 §2; March 22, 1971).

12.20.021 Landscape Plantings Within the Sidewalk Space.

The space between the lot line and existing or projected curb line on each side of every street in the city (hereafter known as the sidewalk space) shall be used only for the location of approved street trees in accordance with Section 12.20.020, turf grass, shrubs, perennial and annual flowering plants, ornamental grasses, vegetable gardens, and ground covers. Shredded wood mulch may be placed around street trees and landscape plantings within the sidewalk space. (Ord. 18168 §2; April 28, 2003).

12.20.025 Street Trees on Private Property.

The Director may, subject to approval of the Mayor, request permission to enter upon and plant one or more street trees on property adjacent to public right-of-way pursuant to an easement agreement when there is insufficient land available for the planting and proper growth of the street tree or trees in the public right-of-way. Such easement agreement shall be conditioned upon the owner of the property agreeing to assume ownership and liability for the street tree and the responsibility for its proper maintenance which shall include watering as often as required by necessity, cultivating, mulching, and trimming, or its removal if dead, dying, diseased, or hazardous.

The determination of insufficiency of available land shall be based upon existing roadway width, except in those cases where design work is underway or completed for a roadway project to be constructed within the next year, in which case the new curb location shall control. The Parks and Recreation Department shall prepare a report for the City Council detailing where trees have been planted on private property and the reasons for such plantings at the request of a City Council member. (Ord. 19819 §8; December 17, 2012: prior Ord. 17741 §1; October 9, 2000).

12.20.030 Maintenance of Street Trees.

Except as may otherwise be provided by the City Council for council-created street tree planting districts, the trimming, spraying, removing, and destroying of all trees now existing, the selecting, planting, trimming, spraying, removing, and destroying of all street trees hereafter planted in or upon any street, parkway, sidewalk space, or other public way within the city, shall be done by and at the expense of the city and at its discretion and by no other person; provided, the Director may, in accordance with the provisions of this chapter, issue a permit to any applicant therefor, allowing such person to plant, remove, or destroy any such tree. (Ord. 18168 §3; April 28, 2003: P.C. §12.20.010: Ord. 10129 §3; March 22, 1971: Ord. 3489 §30-601, as amended by Ord. 7145; May 2, 1960).

12.20.035 Maintenance of Landscape Plantings Within the Sidewalk Space.

The owner of the property abutting the sidewalk space shall be responsible for the routine care of such landscape plantings within the sidewalk space, including watering, mowing, raking and disposing of leaves, twigs, and other debris, weed control in accordance with Chapter 8.46, and the trimming and pruning of shrubs and other ornamental landscape plantings. (Ord. 18168 §4; April 28, 2003).

12.20.040 Application for Permit.

Any person desiring to plant, remove, or destroy any street tree in or upon any street, parkway, sidewalk space, or other public way within the city shall first make a written application to the Director so to do, upon forms furnished by the city. Such application shall set forth the name and address of the applicant, the name and address of the person, firm, or corporation doing the work, and such other information as the Director may require. At the time of making such application, the applicant shall agree in writing to save the city harmless and to protect the city and the public at all times in connection with such work under such permit, and to do such work in conformance with specifications set forth by the city. Also at the time of making such application, the applicant shall furnish the Director with the written consent to the issuance of such permit from the owner of the property abutting the public property upon which such work is proposed to be done. (Ord. 18168 §5; April 28, 2003: P.C. §12.20.020: Ord. 10129 §4; March 22, 1971: Ord. 3489 §30-602, as amended by Ord. 7154; May 2, 1960).

12.20.050 Issuance of Permit; Requirements Pertaining to Planting, Maintaining, Removal, and Destruction.

After inspection of the location in question, if in his opinion it is desirable that such tree be planted, removed, or destroyed, the Director shall issue a permit therefor. Such permit shall set forth the name and address of the owner of the property abutting the public property upon which such work is to be done; the name and address of the person who will perform such work; and the location at which such work will be performed. The permittee shall furnish any such street tree to be planted. After planting, such street tree shall be and remain the property of the city, and subject to the provisions of this chapter. The cost of any such street tree and the cost of all such permitted planting, removing, and destroying shall be and remain the permittee's; provided, the Director may, in accordance with the Tree Voucher Program, issue a voucher towards the purchase of any such street tree. Such permit shall be subject to the following conditions, which shall be made a part of said permit, and failure to comply therewith shall constitute a violation of this chapter:

(a) Any street tree to be planted shall be planted at the location designated by the Director. All trees when planted shall be not less than one inch in diameter at one foot above the ground surface. No whips shall be planted;

(b) When a street tree is being removed or destroyed, the stump shall also be removed. All removed trees, including limbs and debris therefrom, shall be removed from the street, parkway, sidewalk space, or other public way within forty-eight hours after being cut, and the ground shall be raked clean of all chips, branches, and debris;

(c) When a street tree is being felled, it shall be felled away from the roadway or parallel with the roadway, when possible, and the sidewalk and street shall be guarded as to protect pedestrians and vehicles thereon;

(d) All damage to curbs, sidewalks, and other public property occurring in the performance of any such work shall be promptly and properly repaired at the permittee's expense. (Ord. 19050 §1; March 10, 2008: prior Ord. 18168 §6; April 28, 2003: Ord. 16951 §90; March 11, 1996: P.C. §12.20.030: Ord. 10129 §5; March 22, 1971: Ord. 3489 §30-603, as amended by Ord. 5893; October 25, 1954).

Chapter 21.09

REGISTRATION OF NEGLECTED BUILDINGS

Sections:

21.09.010 Purpose.
21.09.020 Public Nuisance.
21.09.030 Director of Building and Safety Responsible for Enforcement.
21.09.040 Violation Not Exclusive.
21.09.050 Inspection of Property.
21.09.060 Definitions.
21.09.070 Duty to Register Neglected Building.
21.09.080 Registration Fee.
21.09.090 Resident Agent.
21.09.100 Registration Penalty; Lien on Property; Assessment Process.
21.09.110 Procedures for Registration; Notice; Penalty.
21.09.120 Reinspection.
21.09.130 Removal from Registration List.
21.09.140 Registration Non-transferable.
21.09.150 Appeals to Housing Advisory and Appeals Board.
21.09.160 Failure to Reimburse Registration Fees or Pay Civil Penalties.
21.09.165 Collection and Distribution of Fees and Penalties.
21.09.170 Criminal Violations; Penalties.

21.09.010 Purpose.

Vacant and neglected buildings are the single biggest source of urban blight in both residential and non-residential neighborhoods. Owners who fail to maintain their properties create eyesores that lead to increased crime, declining property values, and the disappearance of legal and legitimate commercial activity in the area. It is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare.

Such buildings constitute a nuisance. The establishment and enforcement of a registration system to monitor such buildings and to develop a means to decrease the number of neglected buildings within the city is necessary to adequately protect the public health, safety, and welfare of the citizens of Lincoln. (Ord. 20058 §1; August 11, 2014).

21.09.020 Public Nuisance.

Neglected buildings shall constitute a public nuisance. (Ord. 20058 §2; August 11, 2014).

21.09.030 Director of Building and Safety Responsible for Enforcement.

The Director of the Department of Building and Safety or his or her designees are designated to administer and enforce this chapter. (Ord. 20058 §3; August 11, 2014).

21.09.040 Violation Not Exclusive.

Violations of this chapter are in addition to any other violations enumerated within the ordinances of the Lincoln Municipal Code. This chapter in no way limits the penalties, actions, or abatement procedures which may be taken by the City for a violation of this chapter which is also a violation of any other ordinance of the City of Lincoln or statute of the State of Nebraska. (Ord. 20058 §4; August 11, 2014).

21.09.050 Inspection of Property.

(a) All personnel of the City authorized to enforce this chapter are hereby authorized and directed to make complaint-initiated inspections to determine the condition of property located within the city or within three miles of the corporate limits of the city and outside of any other organized city or village, in order that he or she may perform his/her duty of safeguarding the welfare and safety of the general public and in order that he/she may ascertain that property as set forth in this title is maintained as required herein.

(b) Any officer or employee of the City charged with the enforcement of this title shall not, in the discharge of his/her duties, thereby render himself/herself liable personally. Any suit brought against an officer or employee of the City because of such act performed by him or her in the enforcement of any of the provisions of this title shall be defended by the City Law Department until the final termination of the proceedings therein. (Ord. 20058 §5; August 11, 2014).

21.09.060 Definitions.

For purposes of this chapter, the following definitions shall apply:

Boarded up shall mean that some or all of the building's doors or windows have been covered with plywood, wood, or metal sheeting, paneling, or other similar materials, for the purpose of preventing entry

into the building by persons, animals, or the elements of weather.

Building shall mean a building, accessory structure, or other structure used or intended to support permanent or continuous occupancy or use for residential purposes.

Building and Safety shall mean the Department of Building and Safety for the City of Lincoln, Nebraska.

City shall mean the City of Lincoln, Nebraska.

Deterioration shall mean to weaken, disintegrate, corrode, rust or decay, and lose effectiveness. The lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, peeling, rusting, or any other evidence of physical decay or neglect or excessive use or lack of maintenance over a substantial or widespread area as opposed to a limited or concentrated area.

Director shall mean the Director of the Department of Building and Safety or his or her designee.

Dwelling shall mean any building or structure that contains one or more dwelling units used, intended or designed to be built, used, rented, leased, let, or hired out to be occupied for living purposes. This includes, but is not limited to, single family houses, duplexes, and other similar buildings or structures.

Dwelling unit shall mean a single unit, with one or more rooms, providing complete independent living facilities for one or more persons, including, but not limited to, permanent living, sleeping, eating, cooking, bathing, showering, toilet, and other sanitation facilities.

LMC shall mean the Lincoln Municipal Code, including, but not limited to, all related building, construction, fire, plumbing, electrical, mechanical, and property maintenance codes.

Neglected building shall mean an unoccupied dwelling wherein one or more of the following events have occurred:

(a) Within the last six months, the property is the subject of two or more notices of violation of the provisions of Chapters 5.38, 8.22, 8.26, 8.46, or 21.05 of the LMC;

(b) The dwelling is repeatedly unsecured for 30 days or more;

(c) The dwelling has sustained significant fire, wind, or water damage and is uninhabitable and no visible signs of consistent efforts to repair, rehabilitate, demolish, or remove the building are evident within 90 days after the occurrence resulting in the damage described herein;

(d) The dwelling has been declared a nuisance pursuant to Neb. Rev. Stat. §18-1722 or LMC Chapter 8.26;

(e) The dwelling has been boarded up for a period of more than ninety (90) days;

(f) The dwelling has been declared and placarded by Building and Safety as an unsafe structure pursuant to LMC Sections 21.05.160 or 21.05.190 for more than two years;

(g) The dwelling has sustained substantial deterioration due to lack of maintenance and the owner has failed to comply with a previous notice to correct a violation of the LMC;

(h) The owner has failed to appear and a warrant has been issued in the County Court of Lancaster County, Nebraska for a violation of Chapters 5.38, 8.22, 8.26, or 21.05 of the LMC regarding an unoccupied building or structure with violations in said chapters;

(i) The owner has refused to accept service of notices of violations of Chapters 5.38, 8.22, 8.26, or 21.05 of the LMC, when proper service has been attempted.

A vacant dwelling shall not be deemed neglected if such dwelling is compliant with the LMC, except that water, electric, or other utilities have been disconnected at the request of the owner.

Occupancy shall mean the purpose for which a building or portion thereof is utilized or occupied.

Owner shall mean any person who is a holder of any legal or equitable interest in the premises, and alone or jointly or severally with others:

(a) Has record legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof; or

(b) Has charge, care or control of any dwelling or dwelling unit and has an interest in a structure, or as personal representative, trustee, or guardian of the estate of the owner. This shall not include resident agents.

Person, as used in this chapter, shall mean any individual, firm, association, corporation, company, syndicate, partnership, or other legal entity, or a natural person.

Premises shall mean a lot, plot, or parcel of land including the neglected building located thereon.

Resident agent shall mean a person residing within Lancaster County, Nebraska, or a company or

agency with a manager or agent who resides in Lancaster County, Nebraska, who is authorized to conduct transactions, lease property, collect rents, make or order repairs, order or oversee service to dwellings and dwelling units, or receive notices on behalf of the owner.

Unoccupied building shall mean a building that is unattended and is not actively used as a dwelling.

Unsecured shall mean that access to the building may be obtained through open, unlocked, broken, or missing doors or windows of such building in such a manner that access may be gained with little or no damage to any portion of the building. (Ord. 20058 §6; August 11, 2014).

21.09.070 Duty to Register Neglected Building.

(a) The owner of a neglected building shall be required, after written notification from Building and Safety, to register such neglected building with Building and Safety within thirty days of the date of the notice from Building and Safety. Written notification sent pursuant to Section 21.09.110(c) shall be deemed good service. If the owner is a non-resident of Lancaster County, Nebraska, such notice shall be sent by regular first class U. S. mail to the last known address of the owner and shall be deemed good service upon deposit with the United States Postal Service. Service on a resident agent shall be deemed good service on the owner.

(b) The registration shall include the following information:

(1) The correct legal description and address of the premises;

(2) The names, addresses, telephone numbers, and email addresses of the owner or owners;

(3) The names, addresses, and telephone numbers of all known lienholders and all other parties with a legal or equitable interest in the building;

(4) The name, address, telephone number, and email address of the resident agent designated to act on behalf of the owner, except if the owner will be the resident agent;

(5) The period of time the building is reasonably expected to remain unoccupied under the circumstances;

(6) A plan and timetable to bring the building into compliance with Chapters 5.38, 8.22, 8.26, 8.46, or 21.05 of the LMC. Building plans are not necessary for the registration; and

(7) If the owner does not intend to sell, repair, or rehabilitate the building(s), then the owner shall provide a plan for removal or demolition of all buildings and structures, including a reasonable timeline for completion.

(c) A neglected building shall not be deemed registered until all requirements of registration have been satisfied to a reasonable degree as determined by the Director. The Director shall have the authority to deny a registration for the following reasons:

(1) The information supplied by the owner is incomplete, false, fictitious, or inaccurate;

(2) The timetable for bringing the building into compliance is unreasonably long;

(3) The plan for repairs and bringing the building(s) into compliance does not address or correct the violations or deficiencies identified by Building and Safety;

(4) More than two years have passed since the first notice of registration has been served or delivered to the owner or resident agent.

(d) In the event a registration is denied, the Director shall refer the matter to the City Attorney for consideration of further action. The City Attorney may take any reasonable action necessary to enforce this chapter.

(e) In addition to any other remedy permitted in this chapter, in the event an owner fails to timely register a neglected building as required herein, the City may register the building and the registration fees, all penalties, and other consequences that may or shall apply to the owner of the premises due to the owner's failure to register shall be equally enforceable when the building is registered by the City. In the event the City registers a neglected building, such registration shall only require the information set forth in subsections 21.09.070(b)(1), (b)(2) and (b)(3) herein. Notice of such registration by the City shall be sent to the owner and resident agent in the same manner as set forth in Section 21.09.110.

(f) A copy of the notice under Section 21.09.070(a) shall be recorded by the Director in the records of the Register of Deeds for Lancaster County, Nebraska and indexed against the premises.

(g) The owner of any dwelling that has been placarded as an unsafe structure for 21 months or more as of the date of passage of this section shall have 90 days from said date of passage to correct violations and otherwise bring the building(s) into compliance with the LMC.

(h) The Director shall maintain a registration list identifying all properties currently registered with

Building and Safety and describing all actions taken with respect to each registered building.

(i) Each registration shall expire at the end of 90 days unless removed from the registration list. If the building has not been removed from the registration list at the expiration of a registration herein, the owner or City shall re-register the building pursuant to this section. (Ord. 20058 §7; August 11, 2014).

21.09.080 Registration Fee.

A registration fee of $500.00 per neglected building shall be collected, at the time of registration, by Building and Safety. In the event the City registers or re-registers a neglected building, the registration fee shall be paid by the City and shall be a cost for which owner is liable and shall become a lien on the premises as set forth in Section 21.09.100. Accrual of reimbursable registration fees shall be separate from and in addition to any civil penalties permitted in this chapter. The process for accounting for expenses and assessing a lien shall be pursuant to Section 21.05.100. Once registered, a new fee of $500.00 shall be due and payable for each additional 90-day period thereafter, or portion thereof, as though registered for the first time, until the building is removed from the list or such fee is reduced or waived by the Director. Fees for each additional 90-day period shall become a lien on the premises as set forth in Section 21.09.100. (Ord. 20058 §8; August 11, 2014).

21.09.090 Resident Agent.

(a) The owner of any neglected building which is subject to the registration requirements of Section 21.09.070 shall designate a resident agent for the building. Any owner who lives within Lancaster County, Nebraska may designate himself or herself as the resident agent.

(b) The owner of a neglected building who lives outside of Lancaster County shall name a resident agent who lives within or whose place of business is within Lancaster County, Nebraska.

(c) The designation of resident agent shall constitute an authorization by the owner for the resident agent to act on behalf of the owner with regard to all requirements under this chapter to accept all notices, including all notices pursuant to the LMC, all notices of proposed abatements and all court orders, compliance orders, and administrative orders. Except as described herein, the owner shall be solely responsible for the actions or inactions of the resident agent and may incur criminal and/or civil liability for such actions or inactions of the resident agent. The resident agent shall be responsible for and may incur criminal and/or civil liability to the City pursuant to this chapter only in the event of knowingly providing false or inaccurate information to the City in applications, plans, or other documents provided to the City under this chapter.

(d) The owner's designation of a resident agent shall not relieve the owner of any obligation to comply with the provisions of this chapter or any other provisions of the LMC or laws of the State of Nebraska.

(e) Notices required by this section sent pursuant to Section 21.09.110(c) shall be deemed good service. (Ord. 20058 §9; August 11, 2014).

21.09.100 Registration Penalty; Lien on Property; Assessment Process.

(a) In addition to reimbursing the City for all registration fees paid by the City, any owner who fails to timely register a neglected building, as required by this chapter, shall be liable for a civil penalty not to exceed $500.00 as determined by the Director.

(b) Each civil penalty herein shall automatically renew for an additional 90 days unless the neglected building is removed from the registration list as set forth in this chapter with new fees assessed as set forth in Section 21.09.080.

(c) If a building continues to meet the definition of a neglected building for a period of more than 90 calendar days after notice is given, or has been registered, and the owner fails or refuses to register or re-register the neglected building after the initial registration expires, or if the City has not been reimbursed for any portion of registration fees paid by the City, or an assessed civil penalty is not paid, the Director may continue to assess a penalty not to exceed $500.00 for each 90- calendar-day period, or portion thereof, the neglected building continues to be unregistered or the registration fees or civil penalties are not paid. At no time shall the amount of unreimbursed registration fees, civil penalties, and assessments exceed $4,000.00 per building in a calendar year, but shall be cumulative in following years. The Director may reduce, waive, or stay the imposition of a civil penalty herein for good cause shown by the owner in efforts to comply with this section or an approved plan.

(d) All registration fee reimbursements and civil penalties assessed shall be payable directly to Building and Safety.

(e) The owner of the property at the time any notice under Section 21.09.070 is issued shall be personally liable for all unreimbursed registration fees and unpaid civil penalties and any unreimbursed fees and penalties shall also be a lien on any real property upon which the neglected building is wholly or partially located, from the date of assessment of fees and civil penalties. Interest as allowed by applicable Nebraska law shall also accrue unless reduced, waived or stayed by the Director.

(f) The Director shall develop policies and procedures for the implementation of this penalty.

(g) The Director shall keep an itemized account of the expenses incurred by the City pursuant to this section. For assessment of unpaid fees and civil penalties hereunder, the Director shall prepare and file with the City Clerk a report specifying the actions taken, the itemized and total cost of the actions, a description of the real property upon which the building or structure is or was located, and the names and addresses of the owners of the property.

(h) Upon receipt of said report, the City Clerk shall present it to the City Council for consideration. The City Council shall fix a time, date, and place for hearing said report and any protests or objections thereto. The City Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by regular first class U.S. mail, postage prepaid, addressed to the owner of said property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Deposit of the notice with the United States Postal Service shall be deemed good service. Such notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour, and place the Council will hear and pass upon the Director's report, together with any objection or protests which may be made thereto, and assess such property with such cost. Such assessment shall be a lien upon such property from the date of assessment, shall become delinquent thirty days after the date of assessment, and shall draw interest from said date until paid at the same rate as provided by law for delinquent general real estate taxes. Foreclosure on a lien shall be pursuant to Nebraska law. (Ord. 20058 §10; August 11, 2014).

21.09.110 Procedures for Registration; Notice; Penalty.

(a) Whenever the owner of a neglected building fails to timely register or re-register such building or if the City registers or re-registers a neglected building, a Notice of Registration Penalty shall be issued to the owner within 10 days after the date for registration or re-registration.

(b) A separate Notice of Registration Penalty shall be issued for each subsequent registration fee or civil penalty that may be assessed.

(c) The Notice of Registration Penalty shall be sent to the owner or resident agent by regular first class U.S. mail or personal service and shall be deemed good service upon deposit with the United States Postal Service, if first class mail is used. Service upon the resident agent shall be deemed to be good service upon the owner.

(d) All Notices of Registration Penalty shall be recorded in the offices of the City Clerk and the Register of Deeds for Lancaster County, Nebraska and indexed against the premises. (Ord. 20058 §11; August 11, 2014).

21.09.120 Reinspection.

The Director may periodically reinspect neglected buildings to ensure compliance with this chapter and all applicable court or administrative orders. (Ord. 20058 §12; August 11, 2014).

21.09.130 Removal from Registration List.

(a) A neglected building shall be removed from the registration list and requirements of this chapter by the Director upon such building meeting one or more of the following:

(1) Achieving compliance with all health and safety standards set forth in Chapters 8.22, 8.26, 8.46, and 21.05 of the LMC and all registration fees and penalties have been paid in full;

(2) Removal or demolition by the owner;

(3) Removal or demolition by the City of Lincoln;

(4) Discharge of assessed registration fees and penalties and/or liens upon the property through a foreclosure or other legal process; or

(5) The building is determined to be a dangerous building under LMC Chapter 21.05.

(b) Removal from the registration list shall not result in the reduction, waiver, discharge, release, or other modifications to fees and penalties assessed to

the premises except as may be ordered by a court of law with competent jurisdiction or as may be modified by the Director herein.

(c) Upon compliance with the requirements of this chapter and in the event a Notice of Registration Penalty has been recorded with the Register of Deeds for Lancaster County, Nebraska, the Director, within 30 days of the building becoming compliant with the LMC, shall record a Notice of Compliance with the Register of Deeds stating that, as of the date of the Notice of Compliance, the property complies with the LMC.

(d) The Director may remove a neglected building from the list in the event the Director determines that the interests of the City and the purpose of this ordinance are best served by removal. Such a finding or determination shall be in writing and approved by the City Law Department before becoming effective. All such findings or determinations shall be recorded with the City Clerk. (Ord. 20058 §13; August 11, 2014).

21.09.140 Registration Non-transferable.

If the neglected building is required to be registered pursuant to this chapter, a new registration shall be required for each change of ownership of the building. The seller of a neglected building, which is registered with Building and Safety pursuant to this chapter, shall notify Building and Safety within ten business days after the sale or other transfer or conveyance of any registered property. The Director may waive the requirement of a registration following a conveyance if there is sufficient evidence or reason to believe that action will be taken shortly after the sale to bring the building back into compliance with the LMC or remove or demolish the neglected building. (Ord. 20058 §14; August 11, 2014).

21.09.150 Appeals to Housing Advisory and Appeals Board.

(a) Appeals from any decision or action of the Director of Building and Safety related to this chapter may be made by requesting a hearing before the Housing Advisory and Appeals Board.

(b) The appeal process and time for appeal shall be governed by LMC Section 21.05.210.

(c) Enforcement of any decision or action of the Director shall be stayed in the event a timely appeal is requested pursuant to LMC Section 21.05.210 and shall continue until the administrative appeal process therein is completed. (Ord. 20058 §15; August 11, 2014).

21.09.160 Failure to Reimburse Registration Fees or Pay Civil Penalties.

In the event that any person fails to reimburse the City for registration fees or pay civil penalties assessed herein, the City Law Department is authorized to seek the recovery of all such registration fees and civil penalties by any means allowed by law. In the event the City Law Department intends to foreclose on any liens assessed under Section 21.09.100, notice shall be given to the owner, pursuant to Section 21.09.110, at least 30 days prior to commencement of the foreclosure. This notice provision is waived in the event that such notice would result in the City Law Department being unable to prosecute such foreclosure. (Ord. 20058 §16; August 11, 2014).

21.09.165 Collection and Distribution of Fees and Penalties.

Any collection or reimbursement of fees and costs incurred due to the registration of a neglected building by the City shall be deposited in the General Fund and appropriated to the Problem Resolution Team line item. Any penalties collected herein shall be deposited in the General Fund and distributed pursuant to applicable law. (Ord. 20141 §1; January 26, 2015).

21.09.170 Criminal Violations; Penalties.

Any person upon whom a duty is placed by the provisions of this title who shall fail, neglect, or refuse to perform such duty, or who shall violate a provision of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00 or be imprisoned in the county jail for a period not to exceed six months, or both, except that each person so convicted shall be fined in a sum of not less than $200.00 for the first offense, not less than $300.00 for a second offense, and not less than $400.00 for the third offense and each offense thereafter. The penalty herein provided shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of any license, permit, or right elsewhere provided for or as provided by law. Each day that a violation of this title continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 20058 §17; August 11, 2014).

Chapter 24.38

ON-SITE WASTEWATER TREATMENT SYSTEMS

Sections:

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24.38.010 Purpose.

The City Council finds that properly planned, constructed, installed, operated, and maintained on-site wastewater treatment systems:

(a) Promote the health and welfare of the citizens of this city by preventing the pollution of ground and surface water;

(b) Prevent nuisance;

(c) Eliminate hazards to the public health by minimizing pollution of water supplies and hazards to recreational areas; and

(d) Minimize disease transmission potential.

It is, therefore, declared to be the public policy of this city to eliminate and prevent health and safety hazards by regulating the design, construction, installation, operation, and maintenance of on-site wastewater treatment systems, requiring registration of those who clean systems and dispose of wastes therefrom; and providing penalties for violations. (Ord. 17939 §1; November 26, 2001: prior Ord. 9150 §1; January 16, 1967).

24.38.020 Definitions.

Certified professional shall mean a private onsite wastewater treatment system professional certified under the Nebraska Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act to perform the tasks defined in Nebraska Title 124, Chapter 20, for which the certification has been issued.

Chemical toilet shall mean a portable structure containing toilet facilities which discharge into a holding tank containing bactericidal liquid.

Cleaner shall mean a person who removes and transports for disposal the contents, including sludge and septage, from on-site wastewater treatment systems, wastewater lagoons, or wastewater works as defined hereinafter or who hauls special or industrial wastes of a liquid nature or of a nature that it can be pumped.

Community sewage system shall mean a wastewater works.

Department shall mean the Lincoln-Lancaster County Health Department.

Development area shall mean an area of land subdivided into lots where an on-site wastewater treatment system will be used. Such subdivision shall include the dividing of an area of land into smaller areas to be sold, transferred, leased, rented, or allowed to be used for the purpose of constructing or locating

a dwelling, or non-dwelling facility that generates wastewater.

Domestic waste or domestic wastewater shall mean human body waste and household type wastes including bath and toilet wastes, laundry wastes, kitchen wastes, and other similar wastes from a dwelling or a non-dwelling facility. Domestic waste or domestic wastewater does not include drainage from roofs; footing or foundation drains; process waste from any industrial, agricultural, or commercial establishment; automotive or industrial chemicals or petroleum products; kitchen waste or wastewater from a restaurant or food preparation facility; water carrying animal waste or commercial process water or wastewater; or similar waste.

Ground water shall mean water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.

Health Director shall mean the Director of Health of the Lincoln-Lancaster County Health Department or his or her authorized representative.

Industrial wastes shall mean wastewater not otherwise defined as domestic wastewater, including the runoff and leachate from areas that received pollutants associated with industrial or commercial storage, handling or processing.

Lot shall have the same definition of the term "lot" as set forth in Section 27.02.130 of the Lincoln Municipal Code.

Non-standard on-site wastewater treatment system shall mean a system which does not meet the requirements of design standards adopted pursuant to this chapter or generates over 1,000 gallons per day.

On-site wastewater treatment system shall mean any system of piping, treatment devices, or other appurtenances that convey, store, treat, or dispose of domestic or non-domestic wastewater, but not including wastewater from a livestock waste control facility, on the property where it originates, or on nearby property under the control of the user, where the system is not connected to a public sewer system. An onsite wastewater treatment system begins at the end of the building drain. A system using a lagoon is limited to a maximum design flow of 1,000 gallons per day to be considered an onsite wastewater treatment system. The word "onsite" used in this Code is equivalent to the word "on-site."

Person shall mean an individual, firm, partnership, company, corporation, trustee, association, organization, or other public or private entity.

Privy or earth pit privy shall mean a device or structure for the disposal of human excreta in a pit in the earth; the pit is covered by a structure affording privacy and shelter and containing a riser and seat.

Septage shall mean those solids and liquids removed during periodic cleaning of a septic tank.

Sludge shall mean the accumulated settled solids deposited from wastewater and containing water to form a semi-liquid mass.

Standard on-site wastewater treatment system shall mean a system which meets the requirements of this chapter and design standards and regulations adopted pursuant to this chapter.

Tank shall mean a watertight structure or container used to hold wastewater for such purposes as aeration, dilution, disinfection, equalization, mixing, sedimentation, storage, collection for transport, treatment, or addition of chemicals.

Three-mile zone shall mean that area within three miles of the corporate limits of the City of Lincoln.

Wastewater lagoon shall mean a shallow body of water in which organic wastes are decomposed by bacteria in the presence of free oxygen.

Wastewater works shall mean facilities for collecting, transporting, pumping and treating wastewater and the disposal of treated effluent and sludges.

Waters of the state shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, water courses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground natural or artificial, public or private, situated wholly or partly within or bordering upon the state. (Ord. 20134 §1; January 12, 2015: prior Ord. 18628 §1; October 17, 2005: Ord. 17939 §2; November 26, 2001: Ord. 16468 §1; September 13, 1993: Ord. 11430 §1; August 11, 1975: Ord. 9150 §2; January 16, 1967).

24.38.030 Requirements for On-site Wastewater Treatment Systems.

Minimum requirements are hereby prescribed in this chapter together with standards and regulations adopted pursuant to this chapter governing the design, construction, installation, operation, and maintenance of on-site wastewater treatment systems. All standards and regulations for the design, operation and maintenance of on-site wastewater treatment systems referred to herein shall be filed with the City Clerk. Except as hereinafter provided by specific amendment,

the standards and regulations set forth in Neb. Rev. Stat. §§ 81-1505(8), and Nebraska Department of Environmental Quality, Title 124 Rules and Regulations For The Design, Operation and Maintenance of Onsite Wastewater Treatment Systems chapter 1, chapters 5 through 19, and chapter 20 sections 001 to 006, as amended from time to time, are hereby adopted by reference and incorporated into Chapter 24.38 of the Lincoln Municipal Code. No person shall construct an on-site wastewater treatment system on a property which is less than three (3) acres in size. No person shall construct, alter, extend, operate, or clean any on-site wastewater treatment system within the City of Lincoln or the three-mile zone contrary to the provisions of this chapter or design standards adopted pursuant to this chapter; no privies shall be constructed or installed for use after the effective date of the ordinance codified in this chapter. Any on-site wastewater treatment system that does not conform to the requirements of this chapter and design standards adopted pursuant to this chapter shall be designed by a Master Installer as defined by Title 124 of the Nebraska Administrative Code or a Professional Engineer (P.E.) licensed in the State of Nebraska. (Ord. 20134 §2; January 12, 2015: prior Ord. 17939 §3; November 26, 2001: Ord. 9150 §3; January 16, 1967).

24.38.040 On-site Wastewater Treatment Systems; Construction Permit; Alteration Permit.

No person shall construct a new on-site wastewater treatment system or cause the same to be done without an on-site wastewater treatment system construction permit issued by the Health Director. No person shall resize or alter the dike of a lagoon, replace tanks, soil absorption, infiltrative or evaporative systems, or extend the laterals to an existing system or cause the same to be done without an on-site wastewater treatment system alteration permit issued by the Health Director. An alteration permit shall not be required for a repair as defined in this chapter.

(a) Application for a permit to construct or alter an on-site wastewater treatment system shall be submitted to the Health Director on forms furnished by the Health Director and shall include information as required by Section 4 of the design standards, information specified in the application form, and any other necessary information to determine whether the construction, alteration, or extension will conform to the provisions of this chapter and the design standards adopted pursuant to this chapter. The application shall include evidence to demonstrate to the satisfaction of the Health Director that there is no community sewer (wastewater works) or other part of the community sewage system within 300 feet of such building or premises into which the sewage can be discharged.

(b) When, upon review of the application, the Health Director determines that the proposed design meets the requirements of this chapter and all applicable fees have been paid, a written construction or alteration permit shall be issued.

(c) The on-site wastewater treatment system must be constructed according to the Health Director approved design.

(d) When, upon review of the application, the Health Director determines the proposed design does not meet the requirements of this chapter, or soil or geological conditions are such as to preclude safe and proper operation of the desired installation or installations, a construction or alteration permit shall be denied.

(e) A construction or alteration permit shall be valid for one year after the date of issuance. A construction or alteration permit can be extended for a period of six months with the payment of applicable fees. (Ord. 20134 §3; January 12, 2015: prior Ord. 17939 §4; November 26, 2001: Ord. 12368 §1; August 28, 1978: Ord. 9150 §4; January 16, 1967).

24.38.041 Requirements for Certification to Construct On-site Wastewater Treatment System.

No person other than a Certified Professional who holds a valid registration certificate issued by the Health Director or a person under their direct supervision may engage in the inspection, pumping, siting, layout, construction, reconstruction, alteration, modification, closure or otherwise changing of an onsite wastewater treatment system. (Ord. 20134 §4; January 12, 2015: prior Ord. 18628 §2; October 17, 2005: Ord. 17939 §5; November 26, 2001).

24.38.043 Registration of Certified Professionals; Application.

Application for a certificate of registration of a Certified Professional shall be made to the Health Director on forms furnished by the Health Director for such purpose. Such forms shall require the name, address, business address, daytime phone number of the applicant, which certificate of registration the applicant is applying for, and such other relevant

information as may be required by the Health Director. The applicant shall complete the required forms. (Ord. 20134 §5; January 12, 2015: prior Ord. 18628 §4; October 17, 2005: Ord. 17939 §7; November 26, 2001).

24.38.044 Registration of Certified Professionals; Requirements.

(a) Before a registration certificate shall be issued, the applicant, after October 1, 2002, shall be required to satisfactorily complete a training and testing program approved by the Health Director to determine their qualifications and fitness for executing the work to be performed by a Certified Professional. The Health Director shall issue a registration certificate if:

(1) The applicant has properly completed the required application forms;

(2) The registration fee has been paid pursuant to Section 24.38.070;

(3) The training and testing program has been satisfactorily completed;

(4) The applicant agrees to up-date all pertinent registration data as it changes, including applicant's address, business address, daytime phone number, and such other information as the Health Director requires.

(b) Once issued, said registration certificate shall be valid for two years from its date of issue, except that the certificate may be revoked as provided for in Section 24.38.045. (Ord. 20134 §6; January 12, 2015: prior Ord. 18628 §5; October 17, 2005: Ord. 17939 §8; November 26, 2001).

24.38.045 Certification of Registration; Revocation.

(a) The Health Director, after conducting a hearing as herein provided, shall have the power to revoke the certificate of registration of a Certified Professional registered pursuant to this title if the same was obtained by error or fraud, or if the holder thereof is shown to be no longer qualified, or if such holder fails to comply with the provisions of law.

(b) Where the Health Director has reason to believe a revocation of a Certified Professional certificate of registration is warranted, the Health Director may serve written notice as follows:

(1) By personal service to the Certified Professional, or

(2) By certified mail, postage prepaid, return receipt requested to the Certified Professional's last known business address.

(c) The person making personal service may provide a written declaration under penalty or perjury identifying the person served and the time, date and manner of service as proof of service.

(d) The notice shall set forth a time, place and date for said hearing before the Health Director and shall identify the facts alleged to constitute revocation of the certificate of registration

(e) The Health Director shall conduct hearings within ten days of the date of notice.

(f) The Health Director may appoint a suitable hearing officer to hear the matter. Such hearing officer shall make recommendations based on the evidence adduced at the hearing for the Health Director's final determination of the matter.

(g) The hearing need not be conducted according to the technical rules of evidence relating to evidence and witnesses. At such hearing, the Health Director and all parties concerned may:

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

(2) Introduce documentary and physical evidence;

(3) Cross-examine opposing witnesses on any matters relevant to the issues of the hearing; and

(4) Rebut evidence.

The Health Director shall, within ten days after the hearing, render a final written decision, setting forth his or her findings and conclusions. If a certificate is revoked, holder of the same shall not apply for a new registration until one year after the date of such revocation. Decisions of the Health Director are final and may be appealed to the District Court as provided by state law. (Ord. 20134 §7; January 12, 2015: prior Ord. 18628 §6; October 17, 2005: Ord. 17939 §9; November 26, 2001).

24.38.050 Inspections.

It shall be the duty of the Certified Professional acting as a representative of the property owner to notify the Health Director when the installation is ready for inspection. The Health Director may make inspections during construction to determine compliance with this chapter. No part of any installation shall be covered until inspected or given approval by the Health Director. If any part of an installation has been covered prior to final approval, the Health Director

may order it uncovered or require probing, excavation, or any other reasonable action necessary to assure the system meets the requirements of this chapter. Final written approval of the system as constructed or altered shall not be given until all pertinent data required has been submitted. (Ord. 20134 §8; January 12, 2015: prior Ord. 17939 §10; November 26, 2001: Ord. 16468 §2; September 13, 1993: Ord. 9150 §5; January 16, 1967).

24.38.055 Annual Operating Permit for Non-Standard On-Site Wastewater System.

(Repealed by Ord. 20134 §9; January 12, 2015: prior Ord. 17939 §11; November 26, 2001: Ord. 15241 §1; August 7, 1989).

24.38.060 Cleaner's and Liquid Waste Hauler's Permit.

No person shall engage in the business or the act of cleaning on-site wastewater treatment systems or similar waste facilities and community sewage systems, or hauling and disposing of the waste therefrom without a permit issued by the Health Director as provided below. In addition, no person shall engage in the business or the act of hauling or disposing of any liquid waste or waste of a nature that it can be pumped, including industrial wastes and wastewater, industrial wastewater, or special waste, as defined in Section 17.58.010, without a permit issued by the Health Director. Any permit issued pursuant to this section shall not be transferable, shall be issued on an annual basis (all such permits expire on May 31 of each year) and shall remain in force upon payment of the annual fee so long as the registrant complies with the applicable requirements of this chapter. Any person may file an application for a permit under this section with the Health Director in writing upon forms provided for that purpose by the City. The Health Director shall issue such permit upon the completion and filing of such forms at the Health Department and upon compliance by the applicant with the terms and conditions of this section and any other applicable law. Failure of the registrant to comply with all the applicable requirements of this chapter shall be sufficient grounds for revocation or denial of such permit by the Health Director. No permit shall be granted to any such applicant until such applicant shall execute and file with the City Clerk a bond in the sum of $500.00 with one or more sufficient sureties thereon to be approved by the City Attorney, which bond indemnifies and saves harmless the city from any damage or injury due to any act of such applicant. At all times the permittee shall act in accordance with the following requirements:

(a) The name, address and permit number of the permittee shall be legibly lettered with not less than three-inch high letters on the cab doors on both sides of each vehicle used for permitted purposes.

(b) Every vehicle used in conjunction with the activities for which a permit has been issued shall be suitably equipped for the safe transport and disposal of the applicable waste. Tank trucks or vehicles shall be equipped with a completely enclosed watertight tank or body and be maintained in a clean, well-painted, and sanitary condition and stored, when not in use, in a building provided for that purpose. Sewage wastes shall not be transported in an open-body vehicle. All tanks on vehicles shall be cleaned immediately following each use.

(c) All tanks, pumps, hose lines, containers, and other appurtenances shall be maintained and secured at all times so as to prevent rupture, damage, or leakage.

(d) The permittee shall obtain approval from the Health Director for every site at which the permittee plans to dispose of the waste material collected. Such approval may be in the form of a valid special waste permit. Waste material collected by the permittee shall not be discharged into ditches, watercourses, lakes, ponds, or at any point where it can pollute any water supply, recreation area, or where it may create a nuisance or health hazard.

Any person authorized by Lancaster County to engage in activities otherwise requiring a permit under this section shall not be required to obtain a separate permit. (Ord. 17939 § 12; November 26, 2001: prior Ord. 16468 §3; September 13, 1993: Ord. 11430 §2; August 11, 1975: Ord. 9150 §6; January 16, 1967).

24.38.070 On-Site Wastewater Treatment Facilities; Fees.

(a) The City Council may, by resolution, from time to time establish or revise fees for the following:

(1) On-site wastewater treatment system construction permit fee

(2) On-site wastewater treatment system alteration permit fee

(3) Cleaner's permit

(This permit is issued on an annual basis, expires on May 31 of each year, and is renewable on payment of the annual fee and demonstrated compliance

with the requirements of this chapter.)

(4) Any person who secures a registration certificate pursuant to this chapter, including a Certified Professional

(5) Permit Extension Fee

(6) Variance Fee

(7) Reinstatement Fee

(8) Development area review fees

A base fee and a per lot fee shall be paid for Health Director review of any development area.

(b) All fees are payable to the Lincoln-Lancaster County Health Department and shall be credited to the Health Fund. No fees will be refunded. (Ord. 20134 §10; January 12, 2015: prior Ord. 20078 §1; August 18, 2014: Ord. 19938 §1; October 21, 2013: Ord. 19789 §1; October 8, 2012; Ord. 19612 §1; September 12, 2011: Ord. 19449 §1; September 13, 2010: Ord. 19301 §1; September 14, 2009: Ord. 19142 §1; September 15, 2008: Ord. 18985 §1; August 27, 2007: Ord. 18801 §1; September 18, 2006; Ord. 18628 §7; October 17, 2005: Ord. 18598 §10; August 22, 2005: Ord. 17939 §13; November 26, 2001: Ord. 17714 §5; August 14, 2000: Ord. 16468 §4; September 13, 1993: Ord. 15241 §2; August 7, 1989: Ord. 12368 §2; August 28, 1978: Ord. 11430 §3; August 11, 1975: Ord. 9150 §7; January 16, 1967).

24.38.080 General Provisions.

(a) Sewage from any building shall be discharged directly into the abutting community sewerage system when the system is available and within 300 feet from the building to the sewer system. Availability shall be determined by the community sewage system owner or operator.

(b) When the conditions of (a) above do not exist, an on-site wastewater treatment system, except privies and the restricted use of chemical toilets, may be used.

(c) Whenever conditions change and the conditions of (a) above can be met, an on-site wastewater treatment system existing at that time shall be abandoned and the building or premises served shall discharge its sewage directly into the community sewage system; such connection to the community sewage system shall be accomplished in compliance with the Lincoln Plumbing Code and shall be completed within six months of the day the community sewage system becomes available.

(d) Any person who abandons or discontinues the use of an on-site wastewater treatment system shall, within thirty days of the abandonment or discontinuance of use, have the contents of tanks or pits or such systems removed and disposed of in compliance with Section 17 of the design standards adopted pursuant to this chapter. Any part of a discontinued system shall be abandoned in such a manner as not to create a health or safety hazard. (Ord. 20134 §11; January 12, 2015: prior Ord. 19973 §11; December 16, 2013: Ord. 17939 §14; November 26, 2001: Ord. 9150 §8; January 16, 1967).

24.38.090 Design Standards.

On-site wastewater treatment systems shall be constructed, altered, or repaired in conformance with this chapter and the design standards adopted pursuant to this chapter governing the design, construction, operation, and maintenance of on-site wastewater treatment systems. (Ord. 20134 §12; January 12, 2015: prior Ord. 17939 §15; November 26, 2001: Ord. 13347 §1; March 29, 1982: Ord. 11430 §4; August 11, 1975: Ord. 9655 §1; December 9, 1968: Ord. 9150 §9; January 16, 1967).

24.38.100 Chemical Toilets.

Chemical toilets may be used only on a temporary basis under the following conditions or circumstances: when water-carriage systems are not available (such as construction projects, emergencies, or similar situations), and where there is no prohibitive ordinance.

When permitted, chemical toilets shall comply with the following constructional and operational details:

(a) CONSTRUCTION DETAILS.

(1) Provide a leakproof receiving tank of acid-resisting material with an opening easily accessible for cleaning.

(2) The bowl must be constructed of nonabsorbent material and be sufficiently elevated above the receiving basin.

(3) The tank and bowl shall be vented with at least a three-inch pipe, extending above the roof line of the superstructure.

(b) OPERATIONAL DETAILS.

(1) The facility shall be maintained in a sanitary condition so as not to create a health hazard or nuisance.

(2) The tank shall be recharged at proper intervals, with chemicals of a bactericidal nature and concentration.

(3) Contents of the chemical toilet shall be removed as often as may be required or whenever the contents are within six inches of the underside of the floor.

(4) Chemical toilet waste shall be disposed of in compliance with Section 24.38.360 of this chapter. Only persons holding a cleaner's registration certificate pursuant to this ordinance shall be allowed to collect and transport chemical toilet waste. (Ord. 20134 §13; January 12, 2015: prior Ord. 11430 §5; August 11, 1975: Ord. 9150 §10; January 16, 1967).

24.38.110 Non-standard On-site Wastewater Treatment Systems.

Other types of on-site wastewater treatment systems which do not meet the requirements of this chapter or the design standards adopted pursuant to this chapter, or which generate over 1,000 gallons per day, shall be reviewed and approved or disapproved by the Health Director. Information describing such other types of on-site wastewater treatment systems shall be submitted on application forms with all information as required in Section 24.38.040, and any additional information the Health Director deems necessary to determine if the on-site wastewater treatment system will treat sewage adequately to protect the public's health and safety, prevent nuisance conditions, and prevent pollution of air, land and waters of the state. The non-standard on-site wastewater treatment system shall be constructed according to the Health Director approved design. The Health Director may require, as a condition of approval, groundwater monitoring for any on-site wastewater treatment system if there is a significant potential for groundwater pollution. The Health Director may require, as a condition of approval, an operation and maintenance manual to insure proper operation of the on-site wastewater treatment system. The property owner shall operate and maintain his/her on-site wastewater treatment system in compliance with this chapter and design standards adopted pursuant to this chapter. (Ord. 20134 §14; January 12, 2015: prior Ord. 17939 §16; November 26, 2001: Ord. 9150 §11; January 16, 1967).

24.38.120 Operation and Maintenance of On-site Wastewater Treatment Systems.

On-site wastewater treatment systems shall be operated and maintained so as not to create a nuisance or a health hazard and not to pollute air, land, or water, including but not limited to the following: the emission of offensive odors, pollution of water supplies and recreational areas, pollution of groundwater, surface waters, or waters of the state, affording access to untreated sewage by insects, rodents, or humans; the unregulated discharge of sewage onto the ground surface. Any person responsible for violation of the conditions described herein shall be subject to the penalties hereinafter set forth. (Ord. 20134 §15; January 12, 2015: prior Ord. 17939 §17; November 26, 2001: Ord. 9150 §12; January 16, 1967).

24.38.140 Inspections and Enforcement.

The Health Director is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter and the design standards adopted pursuant to this chapter.

Upon presentation of proper credentials issued by the Mayor, the Health Director may enter at reasonable times any building, structure, or premises in the city or within the three-mile zone to determine compliance with the requirements of this chapter, and it shall be unlawful for any owner or occupier of the premises or person in charge of the premises to deny right of entry to the Health Director to make such inspection.

Whenever the Health Director has reasonable grounds for believing that there has been a violation of this chapter or the design standards adopted pursuant to this chapter, the Health Director shall give written notice to the person or persons alleged to be in violation. Such notice shall identify the provision of this chapter alleged to be violated and the facts alleged to constitute such violation. Should such violation create a nuisance or a health hazard, the Health Director may cause abatement of such conditions in accord with Lincoln Municipal Code Chapter 8.26, Nuisances. (Ord. 17939 §19; November 26, 2001: prior Ord. 9150 §14; January 16, 1967).

24.38.160 Variance.

Whenever it has been demonstrated to the Health Director that compliance with this chapter cannot be effectively and promptly made, the Health Director may grant a variance as provided in Section 3 of the design standards adopted pursuant to this chapter and after payment of applicable fees. (Ord. 17939 §21; November 26, 2001).

24.38.170 Stop Orders.

Whenever any on-site wastewater treatment system is being installed, replaced, extended or repaired contrary to the provisions of this chapter or design standards, the Health Director shall order the work stopped by notice served on any person or persons engaged in the doing or causing such work to be done, and any such work shall forthwith stop until

the Health Director has authorized the work to proceed again. (Ord. 17939 §22; November 26, 2001).

24.38.180 Revocation or Suspension of Permit.

Any permit granted under this chapter shall be subject to revocation or suspension in the following manner:

(a) The Health Director shall notify the property owner as provided in Section 24.38.220.

(b) If the Health Director determines that the permit holder is in violation of this chapter or design standards adopted pursuant to this chapter, the Health Director may revoke the permit or the Health Director may suspend the permit for an appropriate period of time not to exceed ninety days.

(c) The Health Director shall conduct the hearing in accordance with Section 24.38.190. (Ord. 17939 §23; November 26, 2001).

24.38.190 Enforcement Hearings.

(a) Unless this chapter provides otherwise, the Health Director shall conduct hearings allowed or required under this chapter as soon as practicable, but in no event later than:

(1) Three (3) working days after a request for hearing under Section 24.38.200; or

(2) Ten (10) working days after any other request.

(b) The Health Director may appoint a suitable hearing officer to hear the matter. Such hearing officer shall make recommendations based on the evidence adduced at the hearing for the Health Director's final determination of the matter.

(c) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. The person requesting the hearing and the Health Director may:

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

(2) Introduce documentary and physical evidence;

(3) Cross examine opposing witnesses on any matter relevant to the issues of the hearing; and

(4) Rebut evidence.

(d) The Health Director may uphold, reverse, or modify the act or findings prompting the request or the Health Director may take such other reasonable action as the Health Director may determine proper related to the request.

(e) The Health Director shall make a final determination within ten (10) days after the hearing.

(f) The Health Director's decision shall be final and binding upon the City and upon the person making the request. The Health Director's decision may be appealed to the district court as provided by state law. (Ord. 17939 §24; November 26, 2001).

24.38.200 Immediate Suspension.

(a) The Health Director may suspend any permit issued under this chapter if the Health Director finds that a permit holder, installer, or other person in charge of constructing or operating an on-site wastewater treatment system is in serious violation of this chapter or permit conditions approved by the Health Director whereby such violation causes an imminent health hazard.

(b) The Health Director shall provide the notice required in Section 24.38.220. The suspension shall be effective immediately upon notice and the period of time shall not exceed 90 days.

(c) It shall be unlawful to operate or cause, permit or allow any permitted operations under a suspended permit after service upon the permit holder. (Ord. 17939 §25; November 26, 2001).

24.38.210 Application for Reinstatement After Suspension.

(a) Any person whose permit has been suspended may apply for reinstatement of such permit. The application shall include a statement signed by the applicant that the conditions causing suspension of the permit have been corrected.

(b) The Health Director shall inspect or review the application as for a new permit except that the Health Director shall make the inspection within three working days after receiving the application for reinstatement and the applicable fees.

(c) The Health Director shall reissue the permit if the conditions causing suspension of the permit have been corrected. The permit shall be reinstated upon payment of any reinstatement fee provided in this chapter.

(d) Actions for reinstatement, hearing, or appeal shall not stay or delay the suspension provided in this section in any manner. (Ord. 17939 §26; November 26, 2001).

24.38.220 Notice; Service.

(a) The Health Director may serve notice authorized or required by this chapter as follows:

(1) By personal service to the permit holder, installer, or other person in charge of the on-site wastewater treatment system; or

(2) By certified mail, postage prepaid, return receipt requested to the permit holder's or permittee's last known address.

(b) The person making personal service may provide a written declaration under penalty of perjury identifying the person served and the time, date, and manner of service as proof of service.

(c) If the service is to a person other than the permit holder, the Health Director may send a copy of the notice to the permit holder by certified mail. The copy is not required as a part of the notice, and receipt of the copy does not affect the notice.

(d) The notice shall set forth a time, place and date for said hearing before the Health Director and shall identify the provisions of this chapter, design standard or permit condition alleged to be violated and the facts alleged to constitute such violation. (Ord. 17939 §27; November 26, 2001).

24.38.230 Appeal.

(a) Any person whose application for a permit under this chapter has been denied shall be notified in writing as to the reasons for denial and such person may within ten working days after official notification of such action file a written request for a hearing before the Health Director. Such hearing shall be held within ten working days after the receipt of the request by the Health Director and upon reasonable notice to the applicant. The Health Director shall affirm, modify, or revoke the denial, or issue the permit on the basis of the evidence presented at the hearing.

(b) Any person aggrieved by any final decision of the Health Director in the administration or enforcement of this chapter may appeal such decision to the district court as provided by state law. (Ord. 17939 §28; November 26, 2001).

24.38.240 Penalty.

Any person who is found to have violated any provision of this chapter or any design standard adopted hereunder shall be subject to a fine of no more than $500.00, or imprisonment in the county jail for a period not to exceed six months, or both such fine and imprisonment. Each day that a violation of this chapter continues is punishable as a separate and distinct offense. In addition to any penalty sought or obtained under this chapter or other applicable law, the City Attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance or to abate any nuisance resulting from violations of this chapter. (Ord. 17939 §29; November 26, 2001).

of supervision and assistance with or the provision of personal care, activities of daily living, health maintenance activities, or other supportive services.

For purposes of this definition:

Activities of daily living shall mean transfer, ambulation, exercise, toileting, eating, self administered medication, and similar activities;

Health maintenance activities shall mean noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and resident responses are predictable; and

Personal care shall mean bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Center for the Developmentally Disabled. Center for the developmentally disabled shall mean a facility where shelter, food, and care, advice, counseling, diagnosis, treatment, or related services are provided for a period of more than twenty four consecutive hours to sixteen or more persons residing at such facility who have developmental disabilities.

Change of Use. Change of use shall mean the replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

Childhood Care Facility. See Early Childhood Care Facility.

Children's Home. Children's home shall mean a facility engaged in the service of exercising 24-hour daily care, supervision, custody, or control over sixteen or more children for compensation or hire in lieu of the care or supervision normally exercised by parents in their own home.

Club. Club shall mean a building or facility owned or operated by persons associated for a social, educational, civic, cultural, labor, or professional or recreational purpose, not operated primarily for profit nor to render a service which is customarily carried on as a business, and which is generally restricted to members and their guests using the facility for the purpose for which they have associated; this shall not include a church building, or social hall or the occasional accessory use of a private residence as a meeting place.

Commercial Feed Lot. See Confined Feeding Facility.

Commercial Solar Energy Conversion System. Commercial Solar Energy Conversion System shall mean a commercial grade solar energy conversion system (CSECS) intended to be used primarily to provide off-site power.

Commercial Wind Energy Conversion System/Turbine (CWECS). Commercial Wind Energy Conversion System/Turbine shall mean a commercial grade wind energy conversion system (WECS) of over 100 Kilowatt (KW) plate rated capacity and intended to be used primarily to provide off-site power.

Confined Feeding Facility. Confined feeding facility shall mean a facility where the principal business is the feeding of livestock or poultry, also called a commercial feedlot.

Contractor Services. Contractor services shall mean a business which provides a service which is primarily performed off-site. Few customers visit the site. Common examples of contractor services include plumbing, heating, electrical, and air conditioning service, exterminator service, lawn and garden service, and construction services. Contractor services shall not include garbage or recycling hauling services or tree service. Outdoor storage, machinery, trucks, and service vehicle fleets are common accessory uses. (Ord. 20171 §1; March 15, 2015: prior Ord. 19733 §1; June 25, 2012).

27.02.050 D.

Data Center. Data center shall mean an office building used to house computer or telecommunication systems and associated components, such as computer servers, telecommunications and related storage systems.

Disability or Handicap. Disability or handicap shall mean, with respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such person's major life activities;
(b) A record of having such an impairment; or
(c) Being regarded as having such an impairment.

Disability shall not include current, illegal use of or addiction to a controlled substance as defined by state law.

District. District shall mean a section or sections of either the City of Lincoln or the area within three miles thereof for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Domestic Employee. Domestic employee shall mean an employee such as a household servant, gardener, caretaker, or chauffeur whose work is usually necessary or desirable for the maintenance and enjoyment of his or her employer's dwelling.

Domestic Shelter. Domestic shelter shall mean a temporary shelter for individuals and their children affected by domestic violence. Such use may provide temporary boarding, lodging, counseling, and support services and shall comply with all applicable state licensure requirements.

Dormitory. Dormitory shall mean a type of congregate living facility, affiliated with a college or university, containing a number of private or semi-private rooms for students, usually with common facilities such as bathrooms, dining halls, and recreational areas. Individuals residing in a dormitory do not typically meet the definition of family and do not live as a single housekeeping unit. Individual dormitory rooms do not typically have full kitchens.

Dwelling. Dwelling shall mean any building or portion thereof which is designed and used for residential purposes.

Dwelling for Members of a Religious Order. Dwellings for members of a religious order shall mean a type of congregate living facility containing sleeping rooms, bathrooms, common rooms, dining areas, and a central kitchen maintained exclusively for four or more resident members and their guests or visitors. The order is affiliated with a religious assembly or religious institution.

Dwelling, Non-Related Persons. Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit.

Dwelling, Single-family. Single-family dwelling shall mean a dwelling having accommodations for and occupied by one family.

Dwelling, Two-family. Two-family dwelling shall mean a dwelling having accommodations for and occupied by two families.

Dwelling, Multiple. Multiple dwelling shall mean a dwelling having accommodations for and occupied by more than two families. (Ord. 19733 §1; June 25, 2012).

27.02.060 E.

Early Childhood Care Facility. Early childhood care facility shall mean a building for the provision of services in lieu of parental supervision for four or more children under thirteen years of age for compensation either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, child care home, child care center, before- and after-school child care program, or preschool or nursery school, but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or preschool or nursery school, or a preschool program conducted in a school approved pursuant to Nebraska State Statutes.

Effective Date of This Title. Effective date of this title shall mean May 23, 1979.

Elderly or Retirement Housing. Elderly or retirement housing shall mean a residential development which incorporates specific features designed to alleviate access problems commonly experienced by the elderly, and in which each occupied dwelling unit is occupied by at least one person of sixty years of age or more. Dwellings may be detached, attached, or multiple-family.

Enclosed Disassembly Salvage/Recycling Operation. Enclosed disassembly salvage/recycling operation shall mean a salvage or recycling operation where all wrecking, dismantling, and storage of material is inside a building or buildings.

Excavation. Excavation shall mean the removal of clay, soil, limestone, sandstone, sand, or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling, or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit, or normal farming practices

Existing Urban Area. Existing Urban Area shall mean those areas inside the corporate limits of the City of Lincoln. as well as those areas outside the corporate limits having a zoning designation other than AG Agriculture or AGR Agricultural Residential, on the effective date of this ordinance. (Ord. 19733 §1; June 25, 2012).

27.02.070 F.

Family. One or more persons immediately related by blood, marriage, or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two persons who are unrelated for the purpose of this title. The following persons shall be considered related for the purpose of this title:

(a) A person residing with a family for the purpose of adoption;

27.06.080 Group Living Use Group

Characteristics: The Group Living Use Group is characterized by the residential occupancy of a structure by a group of people who do not meet the characteristics of Household Living. Tenancy is generally arranged on a month-to-month basis, or for a longer period. Group Living may have common eating and social areas for residents. The residents may receive any combination or duration of care, counseling, training, or treatment. Such uses include but are not limited to dwellings for members of religious orders, convalescent home, nursing home, domestic shelters, assisted living facilities, fraternities and sororities, group homes, temporary shelters for the homeless.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Alternative to imprisonment facilities		S	S	S	S	S	S	S	S	S								P								
Children's homes		S	S	S	S	S	S	S	S	S								P								
Domestic shelters	C	C	C	C	C	C	C	C	C	C				C				P			P	P	P			
Healthcare facilities, Residential			S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	P	S							
Dwellings for members of religious orders	S	S	S	S	S	S	S	S	S	S								P								
Dwellings for non-related persons			S	S	S	S	S											P								
Fraternities and sororities								P	P	P								P								
Group homes	C	C	C	C	C	C	C	C	C	C	P		P	C				P	P							
Shelters for the homeless, temporary																		S						S		
All other uses in this Use Group																		P								

(Ord. 20024 §1; June 2, 2014: prior Ord. 19827 §5; February 25, 2013: Ord. 19733 §3; June 25, 2012).

27.06.090 Utilities Use Group

Characteristics: The Utilities Use Group is characterized by the use of equipment for the purposes of distribution of basic utilities which provide service for, but is not limited to electricity, gas, phones, cable, and fiber optics. In addition, such uses include but are not limited to broadcast stations and towers, commercial wind energy conversion system, commercial solar energy conversion system, personal wireless services facilities, and alternative and renewable energy generation systems.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Broadcast stations	S									S	P	P	P	P	P	P	P	P	P		P	P	S	P	P	P
Broadcast towers	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Commercial Solar Energy Conversion System (CSECS)	S																							P	P	P
Commercial Wind Energy Conversion System	S																									
Personal wireless services facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Public utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Utility and cable television purposes	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	S	P	P	P
Wind Energy Conversion System	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
All other uses in this Use Group																								P	P	P

(Ord. 20171 §2; March 16, 2015: prior Ord. 19773 §1; September 10, 2012: Ord. 19733 §3; June 25, 2012).

Chapter 27.63

SPECIAL PERMITS

Sections:

27.63.010 Procedures.
27.63.020 Action of Planning Commission.
27.63.025 Appeal of Planning Commission Action.
27.63.030 Amendments.
27.63.040 Pre-existing Uses.
27.63.050 Parking Regulations.
27.63.060 Sign Regulations.
27.63.070 Early Childhood Care Facilities.
27.63.075 Academies.
27.63.080 Healthcare Facilities; Non-Residential.
27.63.090 Dwellings For Members of a Religious Order.
27.63.100 Farm Chemicals.
27.63.110 Garden Centers.
27.63.120 Mobile Home Courts.
27.63.125 Mobile Home Subdivisions.
27.63.130 Recreational Facilities; Outdoor.
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27.63.150 Broadcast Towers.
27.63.160 Excavation.
27.63.170 Parking Lots.
27.63.175 Parking Garages in O-1 District.
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27.63.190 Temporary Parking Lots.
27.63.195 Temporary Commercial Parking.
27.63.200 Clubs.
27.63.210 Elderly or Retirement Housing.
27.63.215 Housing Facilities For the Physically Handicapped.
27.63.216 Connection of Single-Family Dwelling to Accessory Building for the Physically Handicapped.
27.63.220 Church Steeples, Towers, and Ornamental Spires.
27.63.225 Public Utility and Cable Television Purposes.
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27.63.240 Retail Sales and Service.
27.63.250 Permitted Use Exceeding the Maximum Height Permitted in District.
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27.63.300 Bulk Storage of Petroleum Products.
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27.63.350 Sale Barns.
27.63.370 Banks.
27.63.380 Flood Plain Construction.
27.63.390 Restaurants.
27.63.400 Historic Preservation.
27.63.405 Windows on Side Lot Lines for Any Use in a Historic Preservation District in B-1, B-3 and B-4 Districts.
27.63.410 Dwellings Above First Story in B-1, B-3 and B-4 Districts.
27.63.420 Wind Energy Conversion Systems (WECS) Over the District Height.
27.63.425 Commercial Wind Energy Conversion Systems/Turbines (CWECS).
27.63.430 Greenhouses.
27.63.440 Outdoor Seasonal Sales.
27.63.460 Airport Environs District.
27.63.470 Planned Service Commercial.
27.63.490 Small Batch Concrete Dispensing Units.
27.63.500 Salvage Yards.
27.63.510 Cemeteries.
27.63.530 Healthcare Facilities, Residential.
27.63.550 Private Landing Strips and Appurtenances.
27.63.560 Limited Landfills.
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27.63.630 Theaters, Indoor.
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27.63.650 Mail Order Catalog Sales; O-2, O-3, and B-2 Districts.
27.63.660 Heritage Centers; AG District.

27.63.670 Amateur Radio Antenna Installation.
27.63.680 Sale of Alcoholic Beverages for Consumption On the Premises.
27.63.685 Sale of Alcoholic Beverages for Consumption Off the Premises.
27.63.690 Community Halls; AG District.
27.63.710 Off-Premises Signs.
27.63.720 Personal Wireless Services Facilities.
27.63.730 Sexually Oriented Live Entertainment Establishment.
27.63.740 Adult Day Service Facility.
27.63.750 Alternative to Imprisonment Facility.
27.63.760 Children's Home.
27.63.770 Tree Service.
27.63.790 Veterinary Facility or Kennel.
27.63.800 Single-Family Dwellings.
27.63.810 Farm Winery.
27.63.820 Market Garden.
27.63.830 Commercial Solar Energy Conversion System (CSECS).

27.63.010 Procedures.

Certain use types by their nature tend to be incompatible with other land uses in the same zoning district, but may be found acceptable in certain circumstances when conditioned in a manner to protect abutting use types and to protect the character of the area.

Applications for a special permit under this chapter shall be filed by the owner in writing with the Planning Department on a form provided by the city. Upon filing of the application, the City Council shall refer the application to the Planning Commission. The Planning Commission may authorize, by special permit after public hearing, any of the following use types designated in this chapter as permitted special uses. Such permitted special uses shall be restricted to the particular district or districts listed under the applicable provisions below. Said special permit shall require conformance with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any such special permits. Where specifically authorized under the applicable provisions below for any of the use types designated in this chapter as permitted special uses, the City Council may decrease the minimum regulations of the district in which the permitted special use is located or modify the specific conditions for approval of the special permit provided the public welfare and interest of the city and surrounding area are protected and the general interest and spirit of these regulations are preserved. Unless expressly modified by the terms of the special permit, all regulations of the district in which the permitted special use is located shall apply. Copies of a plot plan of the lot and proposed uses drawn to an accurate scale and showing all pertinent information shall accompany a request for a special permit. (Ord. 19733 §31; June 25, 2012: prior Ord. 18480 §1; December 20, 2004: Ord. 16766 §6; April 10, 1995: Ord. 16593 §11; April 11, 1994: Ord. 15329 §5; August 7, 1989: Ord. 12571 §304; May 8, 1979).

27.63.020 Action of Planning Commission.

Before the issuance of any special permit for any of the buildings or uses enumerated in this chapter, the Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the Comprehensive Plan of the City of Lincoln, the community as a whole, and other matters relating to the public health, safety, and general welfare. If the applicant requests the City Council to make a permitted decrease in the minimum regulations of the district in which the permitted special use is located or to modify the specific conditions for approval of the special permit, the Planning Commission shall hold a public hearing upon such adjustment or modification at the same time that it hears the application for the special permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, safety, community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council, after public hearing, shall take final action upon the application for the special permit and the adjustment. In the event the Planning Commission fails to act upon the application within sixty days from the date

the application is referred to the Planning Commission, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act no later than the commission's next regularly scheduled meeting.

All existing applications for a special permit which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date this ordinance (Change of Zone No. 06062). All applications which have been placed on pending by an applicant after the date of this ordinance (Change of Zone No. 06062) shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 18898 §7; March 12, 2007: prior Ord. 15239 §6; August 7, 1989: Ord. 12571 §305; May 8, 1979).

27.63.025 Appeal of Planning Commission Action.

(a) Any council member, the Mayor, or any aggrieved person, or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(b) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(c) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made. (Ord. 20108 §9; November 27, 2014: prior Ord. 18633 §7; October 24, 2005: Ord. 18482 §1; December 20, 2004: Ord. 15239 §7; August 7, 1989).

27.63.030 Amendments.

After the application for a special permit has been approved, including the specific plot plan required under Section 27.63.010, the Planning Director is authorized to approve amendments to the special permit, provided that:

(a) A request for amendment is filed with the Planning Director, together with all information pertinent to the proposed amendment;

(b) Such amendment shall not violate any regulations set forth in this title;

(c) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(d) There is no increase in the number of dwelling units;

(e) No reduction is made to the applicable setback or yard requirements;

(f) No public land is accepted;

(g) Such amendment shall not be contrary to the general purposes of this chapter;

(h) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original special permit. (Ord. 15239 §8; August 7, 1989: prior Ord. 13528 §5; January 3, 1983: Ord. 12571 §306; May 8, 1979).

27.63.040 Pre-existing Uses.

An existing use of the type listed in this chapter which was lawfully established on the effective date of this title shall be deemed to have received a special permit as herein required and shall be provided with such permit by the city upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use an application in conformance with Section 27.63.010 shall be required. (Ord. 12571 §307; May 8, 1979).

27.63.050 Parking Regulations.

Minimum parking requirements, where applicable, for special permit uses shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §308; May 8, 1979).

27.63.060 Sign Regulations.

Signs for special permit uses shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §309; May 8, 1979).

27.63.070 Early Childhood Care Facilities.

Early childhood care facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, H-4, I-1, I-2, or I-3 zoning districts under the following conditions:

(a) The application shall be accompanied by the following information:

(1) The number of children and number of staff members on the largest shift;

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, play area, and entrances/exits to such facility.

(3) If the proposed facility is for twenty-one or more children and is located in a residential district, the application must also include a conversion plan which complies with the design standards for early childhood care facilities.

(b) Prior to occupancy, such facilities shall comply with all applicable state and local early childhood care and building requirements.

(c) Facilities with twenty-one to thirty children shall be located on collector or arterial streets. Facilities with thirty-one or more children shall be located on an arterial street. The location of such facilities on such streets shall comply with the design standards for early childhood care facilities.

(d) The site plan and play area for such facilities shall comply with the design standards for early childhood care facilities.

(e) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code. In residential districts, such parking and loading/unloading area shall comply with the design standards for early childhood care facilities.

(f) If the proposed facility is located in an industrial district, the applicant shall submit to the Health Department, for its review and recommendation, information on the storage and use of hazardous chemicals in the vicinity, evacuation plans and internal air quality control.

(g) The City Council may modify these conditions, except for condition (b). (Ord. 18480 §2; December 20, 2004: prior Ord. 17232 §12; August 18, 1997: Ord. 16894 §2; November 2, 1995: Ord. 16854 §42; August 14, 1995: Ord. 16606 §3; May 9, 1994: Ord. 15368 §18; December 18, 1989: Ord. 14728 §3; August 10, 1987: Ord. 14576 §1; January 5, 1987: Ord. 14192 §3; September 3, 1985: Ord. 14023 §1; January 14, 1985: Ord. 12571 §310; May 8, 1979).

27.63.075 Academies, Private Schools, Community Colleges, Colleges, or Other Post-Secondary Education Facilities.

(a) Academies, community colleges, colleges, or other post-secondary education facilities when not otherwise permitted in the district, may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-T, O-2, O-3, I-1 or I-3 zoning districts.

(b) The application for a special permit for an academy shall be accompanied by the following information:

(1) Number of students, time separation between classes, number of staff members on the largest shift, and limitations on hours and classes to minimize the number of persons on site at any one time.

(2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading area, and entrances/exits to such academy. The parking and the loading and unloading area for such academy must comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code.

(c) If the proposed facility is located in an industrial district, the applicant shall submit information on the storage and use of hazardous chemicals in the vicinity, evacuation plans, and internal air quality control to the Health Department for its review and recommendation. (Ord. 19827 §14; February 25, 2013: prior Ord. 19733 §31; June 25, 2012: Ord. 19109 §3; July 28, 2008: Ord. 16909 §3; December 18, 1995: Ord. 16854 §43; August 14, 1995: Ord. 15368 §19; December 18, 1989).

27.63.080 Healthcare Facilities; Non-Residential.

Non-residential healthcare facilities may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-5, H-2, H-3, H-4, or I-3 zoning districts under the following conditions:

(a) Parking. Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed. Traffic may be required to be discharged into a major street as designated in the Comprehensive Plan, or into a classified collector. No parking shall be permitted in required front or side yards; all parking shall be screened.

(b) Yard and area regulations.

(1) Buildings shall not occupy over thirty-five percent of the total land area covered by the special permit.

(2) Yards abutting a nonresidential district shall be the same as those required in said abutting district.

(3) Any yard abutting a residential district or located wholly or partially in a residential district shall be the greater of ten feet or that required in the said abutting district, plus an additional one foot setback for each one foot of height shall be provided between the yard line and the wall nearest the yard line for that portion of the building exceeding twenty feet in height.

(4) Required front and side yards shall be landscaped.

(5) The City Council may increase or decrease these requirements with consideration given to both facilities and adjacent environment.

(c) The proposed non-residential healthcare facility shall conform to all applicable state and federal requirements.

(d) Such facilities should be located on major streets. (Ord. 19733 §31; June 25, 2012: prior Ord. 18687 §26; March 20, 2006; Ord. 15491 §1; March 19, 1990: Ord. 14035 §2; January 21, 1985: Ord. 13768 §3; February 21, 1984: Ord. 13053 §1; November 24, 1980: Ord. 12571 §311; May 8, 1979).

27.63.090 Dwellings For Members of a Religious Order.

Dwellings for members of a religious order may be allowed by special permit in the AG, AGR, R-1 R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The dwelling be a single housekeeping unit;

(b) Parking shall be in conformance with Chapter 27.67; and

(c) The maximum number of members occupying such a facility shall not exceed the following ratios between the resident and the lot area:

(1) AG and AGR, 1 resident/5,000 square feet;

(2) R-1, 1 resident/3,000 square feet;

(3) R-2 and R-3, 1 resident/2,000 square feet;

(4) R-4, 1 resident/1,000 square feet;

(5) R-5, R-6, R-7 and R-8, 1 resident / 750 square feet.

(d) The Planning Commission may increase the number of members up to 100% when the dwelling is located within 600 feet from the boundary of a school, church, or early childhood care facility served by the members. (Ord. 20194 §1; May 11, 2015: prior Ord. 14276 §1; November 25, 1985: Ord. 12571 §312; May 8, 1979).

27.63.100 Farm Chemicals.

Facilities for the commercial storage and sale of fertilizer and toxic or flammable agricultural chemicals such as herbicides, insecticides, and fungicides may be allowed in the AG, AGR, H-4, and I-1 zoning districts. (Ord. 19733 §31; June 25, 2012: prior Ord. 12571 §313; May 8, 1979).

27.63.110 Garden Centers.

Garden centers may be allowed by special permit in the AG, AGR, R-2, and R-3 zoning districts under the following conditions:

(a) In the R-2 and R-3 zoning districts, the land shall be adjacent to the boundary of one of the following districts: B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3;

(b) In the AG and AGR zoning districts, buildings and parking shall be set back at least 100 feet from all exterior lot lines;

(c) In the R-2 and R-3 zoning districts, buildings, parking stalls, and driving aisles shall be set back at least 30 feet from abutting residential lot lines;

(d) Height regulations shall be the same as the zoning district in which it is located;

(e) If a building or parking lot is located on the garden center site adjacent to any residential district, the yards adjacent to said residential district shall be landscaped and screened as required in Section 7.5 titled "Adjacent Land Uses and Zoning Districts of Substantially Different Character; B-1, B-2, B-3, H-1, H-2, H-3, H-4, B-5, O-2, I-1, I-2, I-3 Abutting Residential Districts" in Chapter 3.50 of the approved Design Standards for Zoning;

(f) Access to the garden center shall be from a street that is designated as an existing or future arterial in the Comprehensive Plan. (Ord. 19354 §1; March 8, 2010: prior Ord. 17482 §3; March 29, 1999: Ord. 12571 §314; May 8, 1979).

27.63.120 Mobile Home Courts.

Mobile home courts may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home court has a minimum site area of ten acres.

(b) The average lot per family within the court shall not be less than the lot area per family required in the district or districts in which the mobile home court is located.

(c) Twenty-five feet shall be maintained between mobile homes, and between mobile homes and buildings, in all horizontal directions, except as otherwise provided under Section 21.56.070 of the Lincoln Municipal Code.

(d) No mobile home shall be located closer than fifty feet to any exterior property line, except when the mobile home is located adjacent to a trailer court or another mobile home court. Land within said fifty-foot exterior open space shall be permanently landscaped in accordance with the landscape design standards adopted by the City of Lincoln, except for the necessary paving of roadways and walkways to reach the mobile home area; provided, however, such landscaping shall not create a traffic hazard by impairing visibility at street and roadway intersections.

(e) Mobile homes within the mobile home court shall be required to have a setback of at least twenty feet from the pavement of private roadways.

(f) The design and construction or installation of roadways, walkways, parking spaces, utilities, drainage facilities, storage facilities, recreational facilities, landscaping, and other improvements shall comply with the written design standards established by resolution of the City Council. Said design standards shall be filed with the City Clerk and made available upon request.

(g) No mobile home court shall be occupied or otherwise used until the appropriate city official has found the same is in compliance with the resolution approving said special permit and all other applicable laws, regulations, and requirements.

(h) A special permit for a mobile home court shall be temporary and shall be valid only so long as the mobile home court existing thereunder complies with the resolution approving said special permit and all other applicable laws, regulations, and requirements.

(i) The Planning Commission may permit uses accessory to mobile homes and mobile home courts in the nature of off-street parking facilities, private recreational facilities, and storage and maintenance facilities.

(j) If the applicant requests a combination special permit for both a mobile home court and a community unit plan, the Planning Commission may adjust the requirements set forth in subparagraphs (c), (d), (e) and (f) when such adjustments would be consistent with the intent and purpose of this title to promote public safety and general welfare. However, this paragraph does not allow the minimum court area to be reduced to less than ten acres.

(k) Individual lots in mobile home courts may be created under the following conditions:

(1) A combination special permit for both a mobile home court and a community unit plan is granted for such mobile home court;

(2) The lot area and average lot width for each proposed lot complies with the requirements of the underlying district, and no adjustments thereto are granted under the community unit plan provisions of the required special permit;

(3) The proposed subdivision complies with the land subdivision ordinance, being Title 26 of the Lincoln Municipal Code;

(4) The proposed mobile home lots shall not include all or any portion of the private roadways within said mobile home court; and

(5) Provisions for permanent and continuous maintenance and supervision of the common areas, and private utilities and facilities shall be incorporated in covenants and restrictions governing the subdivided property and shall be approved by the City Attorney prior to filing in the office of the Register of Deeds. (Ord. 18480 §3; December 20, 2004: prior Ord. 16145 §1; July 6, 1992: Ord. 13443, as amended by Ord. 13534 §1; January 24, 1983: Ord. 12571 §315; May 8, 1979).

27.63.125 Mobile Home Subdivisions.

Mobile home subdivisions may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home subdivision shall have a minimum site area of ten acres.

(b) The created mobile home lots and yards shall comply with all the applicable height and area regulations of the underlying district in which such subdivision is to be located, except that the minimum horizontal distance between mobile homes and the exterior property lines of the mobile home subdivision shall be fifty feet.

"N" Street, in conformance with the provisions of Chapter 27.67.

(b) Motor fuel sales facilities or car washes may be permitted in that portion of the B-4 zoning district bounded by 10th Street, 150 feet north of "P" Street, 14th Street, and "N" Street; provided that:

(1) Such use is located wholly within and is accessory to a storage garage permitted under (a) above;

(2) Such use is so located that service and access are from within said storage garage.

(c) Drive-in teller windows may be permitted in that portion of the B-4 zoning district bounded by 10th Street, "P" Street, 14th Street, and "N" Street; provided, that such use is so designed that all customers waiting to be served, and all auto-storage lanes, are wholly within a parking lot or a storage garage.

(d) Motor fuel sales facilities may be permitted in that portion of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 Lincoln Center Business District. (Ord. 19733 §31; June 25, 2012: prior Ord. 19132 §7; September 8, 2008: Ord. 17947 §1; December 10, 2001: Ord. 13334 §6; March 29, 1982: Ord. 12698 §2; September 24, 1979: Ord. 12571 §321; May 8, 1979).

27.63.190 Temporary Parking Lots.

Parking lots may be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) The land shall not be located more than 600 feet from the boundary of one of the following districts: O-1, B-1, B-2, B-3, B-4, H-2, H-3, H-4, or I-1;

(b) Use of such temporary parking lot shall be for a period not to exceed twenty-four months;

(c) Such use is made necessary by reason of construction activity that makes existing parking inaccessible. (Ord. 12571 §322; May 8, 1979).

27.63.195 Temporary Commercial Parking.

Temporary commercial parking lots or temporary commercial storage garages may be allowed by special permit in the R-2 and R-3 zoning districts under the following conditions:

(a) The land subject to the special permit shall be at least 300 feet distant from the nearest dwelling, except dwellings located on the subject land;

(b) Such use shall be for a period not to exceed twenty-four months;

(c) Such lots or garages shall comply with all height and area regulations of the district and other applicable codes and standards. (Ord. 13577 §1; April 25, 1983).

27.63.200 Clubs.

Clubs may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, and O-1 zoning districts under the following conditions:

(a) The application shall include the following information: Type of activity, expected peak use and building capacity, anticipated time of peak activity, and expected expansion of facilities.

(b) Clubs with an off-street parking demand of twenty spaces or more as determined by the city shall be located on major streets. Clubs with an off-street parking demand of less than twenty spaces as determined by the city may be located on any street.

(c) Parking requirements shall as a minimum be in conformance with the provisions of Chapter 27.67. Additional parking regulations, parking ingress and egress, location control, and buffering may be imposed. No parking shall be permitted in any required yard. The application shall include applicant's estimate of the parking needs of the proposed club.

(d) Height and area requirements shall as a minimum be in conformance with requirements of the district in which the use is located; additional requirements may be imposed. In the R-4, R-5, O-1, and O-3 districts, the buildings shall not cover over thirty-five percent of the total area of the lot. In the AG, AGR, R-1, R-2, and R-3 districts, the buildings shall not cover over fifteen percent of the total area of the lot; provided, however, the Planning Commission may adjust the percent of lot coverage to permit a club in an existing building. Visual screening shall be required in any yard that abuts a residential district.

(e) On-site pedestrian circulation sidewalk systems shall be constructed in conformance with the provisions of Section 27.81.010. (Ord. 20188 §1; April 27, 2015: prior Ord. 19733 §31; June 25, 2012: Ord. 18687 §27; March 20, 2006; Ord. 16570 §1; March 7, 1994: Ord. 15763 §6; October 29, 1990: Ord. 13162 §1; June 29, 1981: Ord. 12657 §11; August 6, 1979: Ord. 12571 §323; May 8, 1979).

27.63.210 Elderly or Retirement Housing.

Housing and related facilities for the elderly, either individually or in groups including accessory uses, shall be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, R-T, B-1, B-2, B-3, and B-5 zoning districts under the following conditions:

(a) The height and yard requirements of the district in which the proposed use is located may be adjusted to provide flexibility in the placement of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings or potential buildings on lands under other ownership shall not be reduced by such adjustment.

(b) The minimum lot area of the district, or density requirement, shall not apply; provided, however, that the maximum number of units allowed shall be the greater of those permitted in the underlying zoning district or the community unit plan without bonuses, unless modified by subsection (h) below.

(c) Parking areas or buildings that are of a substantially different character or size than those normally found in that district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council, and the requirements of Chapter 27.67.

(d) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding real property.

(e) One dwelling unit in an elderly housing project may be designated as a caretaker unit and the occupants thereof shall not be subject to the age requirements otherwise applicable to occupants of such a project.

(f) Ten percent of the dwelling units in an elderly or retirement housing project may be designated as units for handicapped persons and the occupants thereof shall not be subject to the age requirements otherwise applicable to occupants of such a project. All of the units designated as units for handicapped persons shall comply with the "Design Standards for Density Bonuses" relating to housing for the handicapped as adopted by the City Council.

(g) Any individual under sixty years of age who resides with an elderly person sixty years of age or more in an elderly or retirement housing project dwelling unit may continue to reside in that dwelling unit after such elderly person has died or due to health reasons has been relocated to a different residence.

(h) The Planning Commission may grant, dependent upon the character of the development and effect on adjacent land uses:

(1) An increase of up to fifty percent in dwelling units over the maximum number of units allowed in (b) above, provided that all of the elderly or retirement housing and related facilities (including bonus units approved in this subsection (1)) comply with section 2.1 (general standards) of the "Design Standards for Density Bonuses" as adopted by the City Council; or

(2) An increase of up to eighty percent in dwelling units over the maximum number of units allowed in (b) above; provided:

(i) That all of the elderly or retirement housing and related facilities (including bonus units approved in this subsection (2)) comply with section 2.1 (general standards) of the "Design Standards for Density Bonuses" as adopted by the City Council; and

(ii) All bonus units approved in excess of fifty percent in dwelling units over the maximum number of units allowed in (b) above comply with section 2.2 (individual unit standards) of the "Design Standards for Density Bonuses" as adopted by the City Council.

(3) An increase of up to one hundred percent in dwelling units over the maximum number of units allowed in (b) above, provided that all of the elderly or retirement housing and related facilities (including bonus units approved in this subsection (3)) comply with section 2.1 (general standards) and section 2.2 (individual unit standards) of the "Design Standards for Density Bonuses" as adopted by the City Council, and the proposed site meets all of the following criteria:

(i) the minimum lot area is at least two acres;

(ii) the lot is less than 2,640 feet from a designated community or neighborhood center; and

(iii) the lot is contiguous with a designated arterial street.

(i) Parking shall be in conformance with Chapter 27.67 unless modified under Section 27.67.030(f) or under the conditions of the special permit. A parking stall with a minimum width of twelve feet shall be required at the rate of one space for every ten stalls required. Parking may be deferred or reduced where the developer substantiates the decreased need for parking. Plans shall show the location of deferred construction and shall meet city requirements for parking lot design. (Ord. 19827 §15; February 25,

2013: prior Ord. 19733 §31; June 25, 2012: Ord. 18903 §4; March 26, 2007: Ord. 18480 §6; December 20, 2004: Ord. 17947 §2; December 10, 2001: Ord. 14644 §11; April 13, 1987: Ord. 13942 §1; September 4, 1984: Ord. 13340 §1; March 22, 1982: Ord. 12751 §23; November 5, 1979: Ord. 12571 §324; May 8, 1979).

27.63.215 Housing Facilities for the Physically Handicapped.

Housing and related facilities for the physically handicapped, either individually or in groups, including accessory uses, shall be allowed by special permit in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, and B-5 zoning districts under the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 unless modified under Section 27.67.030(f) or under the condition of the special permit.

(b) The height and yard requirements of the district in which the proposed use is located shall apply; provided, however, that the height of the buildings may be increased above the district requirements up to twenty percent if the allowable building coverage is reduced by an equal percentage and solar access to adjacent buildings or potential buildings on land under other ownership is not reduced by such increase.

(c) The minimum lot area of the district, or density requirements, shall not apply; however, buildings shall not occupy more than thirty-five percent of the total area of the land subject to the special permit or more than forty percent of said area where all buildings are single story.

(d) Parking areas or buildings that are of a substantially different character or size than those normally found in that district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council, and the requirements of Chapter 27.67.

(e) Each occupied dwelling unit shall be occupied by at least one person who is physically handicapped. Such occupancy shall be certified annually.

(f) The design and development of all housing and related facilities for the physically handicapped shall comply with Section 3 (Housing for the Handicapped) of the Design Standards for Density Bonuses adopted by the City Council as follows:

(1) All dwelling units shall meet the requirements of either Type "A" or Type "B" dwelling units.

(2) A minimum of fifty percent of the dwelling units shall meet the requirements of Type "B" dwelling units.

(3) The numbers or percentages of each type of dwelling unit as provided above may be modified under condition of the special permit.

(g) Dwelling units for nonhandicapped live-in aides shall not be subject to occupancy requirements and/or Section 3 (Housing for the Handicapped) of the Design Standards for Density Bonuses. The units for live-in aides shall be subject to the terms and conditions of the special permit. (Ord. 19733 §31; June 225, 2012: prior Ord. 18903 §6; March 26, 2007: Ord. 17947 §3; December 10, 2001: Ord. 15296 §1; September 11, 1989: Ord. 13546 §10; February 28, 1983).

27.63.216 Connection of Single-Family Dwelling to Accessory Building for the Physically Handicapped.

Connection of an existing single-family dwelling to an existing accessory building for the purpose of providing enclosed access from the main building to the accessory building may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts under the following conditions:

(a) Both the existing dwelling and the existing accessory building comply with the yard requirements of the zoning district in which they are located; and

(b) The enclosed area of the structure attaching the two buildings shall not exceed the greater of 200 square feet or ten percent of the floor area of the main floor of the dwelling and shall not be served by a heating system, cooling system, or plumbing; and

(c) The enclosure shall be constructed in accordance with all applicable building and life safety codes; and

(d) The height and yard requirements of the district in which the single-family dwelling is located shall apply; however, the provisions of Chapter 27.72 which require accessory buildings to comply with the yard requirements of the main building shall not apply. The use of the accessory portion of the structure must remain as an accessory use; and

(e) The single-family dwelling shall be occupied by at least one person who is physically handicapped as defined within Section 27.02 The permittee shall certify such occupancy annually to the Department of Building and Safety; and

(f) Any permit issued pursuant to this section shall be conditioned upon the removal of the enclosed access structure within sixty days of the date on which the dwelling is no longer occupied by at least one person who is physically handicapped. (Ord. 19733 §31; June 25, 2012: prior Ord. 16820 § 9; July 10, 1995).

27.63.220 Church Steeples, Towers, and Ornamental Spires.

Church steeples, towers, and ornamental spires exceeding the maximum height permitted in the district may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, B-3, H-2, and H-3 zoning districts. (Ord. 12571 §325; May 8, 1979).

27.63.225 Public Utility and Cable Television Purposes.

In the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, O-3, B-1, B-2, B-3, B-5, H-1, H-2, H-3, and H-4 districts, a special use permit may be granted to permit the erection and use of a building or the use of premises for a public service corporation for public utility purposes or for a cable communications system for cable television purposes which the Planning Commission deems reasonably necessary for the public convenience or welfare; provided that:

(a) Parking shall be in conformance with Chapter 27.67;

(b) The minimum lot area, or density requirement, shall not apply; however, the building shall not occupy more than thirty-five percent of the total area of land subject to the special permit unless specifically adjusted by the City Council in approving the special use;

(c) Parking areas and buildings that are of a substantially different character or size than those found in the district or neighborhood shall be landscaped and screened in conformance with the standards adopted by resolution of the City Council and the requirements of Chapter 27.67;

(d) The proposed use shall not have any adverse or detrimental effect upon the values of the surrounding real properties. (Ord. 17561 § 1; October 18, 1999: prior Ord. 12928 §1; June 9, 1980: Ord. 12894 §24; April 7, 1980).

27.63.230 Outdoor Theaters.

Outdoor theaters may be allowed by special permit in the H-2 and I-1 zoning districts. (Ord. 13745 §8; January 3, 1984: prior Ord. 12571 §326; May 8, 1979).

27.63.240 Retail Sales and Service.

Stores and shops for retail sales and service of over 30,000 square feet and less than 100,000 square feet may be allowed by special permit in the H-4 zoning district. Stores and shops for retail sales and service exceeding 20,000 square feet in area may be allowed by special permit in the H-3 zoning district.

Stores and shops for retail sales and service of over 20,000 square feet may be allowed by special permit in the I-1 zoning district. (Ord. 19773 §4; September 10, 2012: prior Ord. 12657 §12; August 6, 1979: Ord. 12571 §327; May 8, 1979).

27.63.250 Permitted Use Exceeding the Maximum Height Permitted in District.

A permitted use exceeding the maximum height permitted in the district may be allowed by special permit in the AG, O-1, B-4, H-2, H-3, H-4, I-1, and I-2 zoning districts in conformance with the restrictions, if any, of the zoning district. (Ord. 20137 §1; January 26, 2015: prior Ord. 19436 §3; August 23, 2010: Ord. 16844 §1; August 7, 1995: Ord. 12571 §328; May 8, 1979).

27.63.260 Confined Feeding Facilities.

Confined feeding facilities for livestock and poultry in excess of 15,000 square feet in area shall be allowed by special permit in those parts of the AG zoning district designated "agricultural" on the future land use map of the Lincoln-Lancaster County Comprehensive Plan. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for antipollution controls, or that the applicant has received approval from DEQ for antipollution controls. (Ord. 19172 §13; November 3, 2008: prior Ord. 16812 §1; June 19, 1995: Ord. 14431 §5; July 14, 1986: Ord. 12571 §329; May 8, 1979).

27.63.270 Campgrounds.

Campgrounds for tents, tent-trailers, and recreational vehicles may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

(a) Each campsite shall contain at least 2,500 square feet. The campsite shall be so designed that the required 2,500 square feet can be enclosed within a

27.63.750 Alternative to Imprisonment Facility.

Alternative to imprisonment facilities may be allowed by special permit in the AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts. (Ord. 18535 §15; May 9, 2005).

27.63.760 Children's Home.

Children's homes may be allowed by special permit in the AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts. (Ord. 18535 §16; May 9, 2005).

27.63.770 Tree Service.

Tree service may be allowed by Special Permit in the AG zoning district under the following conditions:

(a) Residential uses occupied by owner/caretaker shall be permitted.

(b) On lots, including undersized lots, where a prior special permit has been issued for the special uses set out in Sections 27.07.040(h), (i), (j), (k) and (r).

(c) The City Council may require screening or buffering from adjacent uses. (Ord. 18729 §3; May 8, 2006).

27.63.780 Outdoor Exercise Area Associated with a Veterinary Facility or Kennel.

(Repealed by Ord. 20086 §3; August 25, 2014: prior Ord. 19733 §31; June 25, 2012: Ord. 18928 §21; June 4, 2007).

27.63.790 Veterinary Facility or Kennel.

(a) Veterinary facilities may be allowed by special permit in those zoning districts where such use is designated as a permitted special use under a Use Group Table in Chapter 27.06.

(b) Veterinary facilities and/or kennels which do not comply with the requirements for a permitted conditional use under Section 27.62.100 may be allowed by special permit in such districts under the following conditions:

(1) All outdoor areas and fences surrounding outdoor areas shall meet the setbacks of the zoning district.

(2) All outdoor areas shall be screened 100% from the ground to six feet in height with an opaque fence or wall. Slats in chain link fence are not acceptable.

(3) Use of outdoor areas between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.

(4) Animals in the outdoor area shall be under the supervision of handlers at all times.

(5) The Planning Commission may limit the number of animals allowed in the outdoor area at any one time.

(6) The Planning Commission may increase or decrease these requirements dependent upon the character of the facilities and the effect on adjacent land uses.

(Ord. 20086 §4; August 25, 2014: prior Ord. 19733 §31; June 25, 2012: Ord. 18928 §22; June 4, 2007).

27.63.810 Farm Winery.

Farm wineries may be allowed by special permit in the AG Agriculture District under the following conditions:

(a) No farm winery shall manufacture wine in excess of 50,000 gallons per year;

(b) A farm winery must produce a minimum of fifteen percent (15%) of its product from fruit or other agricultural products harvested from the premises following five (5) years of business;

(c) Wines produced at the farm winery may be sold on site at wholesale and retail;

(d) Wines produced at the farm winery may be sold at retail for consumption on the premises;

(e) Sampling of wine at the farm winery shall be permitted in reasonable amounts;

(f) A farm winery may sell retail items as an accessory to wine sales through a tasting or wine sales room;

(g) A farm winery may only serve food prepared off site by a Health Department licensed establishment in association with sampling and/or on premises consumption of wine. A farm winery shall not act in the capacity of a retail food establishment;

(h) Unless waived by the City Council, parking shall be in conformance with Chapter 27.67;

(i) The farm winery shall be licensed under the Nebraska Liquor Control Act as a farm winery. (Ord. 19624 §5; September 26, 2011).

27.63.820 Market Garden.

Market gardens may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

(a) The market garden shall have one or more of the following accessory uses associated with the market garden: restaurants, agricultural education and training centers, agricultural tourism, or sales of

agricultural products not grown on site. The accessory uses must be located on the same premises as the market garden, and the products of the market garden must be a major feature of the use that is accessory to it;

(b) The total area for the market garden and its accessory uses must be at least 20 acres but not more than 40 acres. Areas used for grazing or growing of crops for the feeding of animals on site may be excluded in calculating the total area for the market garden.

(c) The combined total area of all market garden accessory uses shall not exceed ten percent of the total area for the market garden. A single family dwelling located on the same premises as the market garden shall not be considered an accessory use to the market garden and shall not be counted toward the combined maximum total area of all the market garden's accessory uses. The applicant shall provide a site plan showing the location, outdoor area, and building floor area of all accessory uses, their setbacks and intended use;

(d) The Planning Commission may limit the maximum square footage of buildings associated with the market garden accessory use;

(e) Direct access to a paved road may be required by the Planning Commission based upon the anticipated traffic generated by the use. The applicant shall include an estimate of all traffic generated based on the accessory uses on site in order to address the impact on the adjacent streets;

(f) Unless waived by the City Council, parking shall be in conformance with Chapter 27.67;

(g) Notwithstanding any provision to the contrary in Section 27.63.680, the Planning Commission may permit the sale of alcoholic beverages for consumption on the premises as part of a market garden accessory use. (Ord. 19702 §5; April 16, 2012).

27.63.830 Commercial Solar Energy Conversion System (CSECS).

A Commercial Solar Energy Conversion System (CSECS) may be allowed in the AG District by special permit under the following conditions:

(a) The system uses photovoltaics to convert solar energy into electricity.

(b) On-site transmission lines shall, to the maximum extent practicable, be placed underground.

(c) Where said use is adjacent to residential zoned land, park land, school property, or major entryways or corridors into the city, town, or village, visual screening through setbacks, berming, and other techniques may be required by the Planning Commission as appropriate and necessary to address the site-related impacts of the CSECS on adjacent property and major entryways or corridors.

(d) Each CSECS facility shall have a decommissioning plan outlining the means, procedure, and costs of removing the machines and all related supporting infrastructure and a bond or equivalent enforcement resource to guarantee removal and restoration upon discontinuance, decommissioning, or abandonment. (Ord. 20171 §3; March 16, 2015).

Chapter 27.68

PERSONAL WIRELESS FACILITIES

Sections:

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27.68.010 Purpose.

These regulations are adopted to protect the public health, safety and welfare, and to minimize visual impact, while furthering the development of enhanced telecommunications services in the City. These regulations are designed to comply with the Telecommunications Act of l996 and any other applicable laws. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. (Ord. 17588 §1; January 18, 2000).

27.68.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

Abandonment, in the case of a co-located or non-co-located facility, shall mean: (a) failure to start operations within 180 days of completion of the structure, or (b) to cease operation for a period of 180 or more consecutive days. In the event that factors beyond a provider's control postpone the start of or cause the temporary cessation of operations of a co-located or non-co-located facility, the time limitations specified herein shall be extended for such period of delay.

Administrative permit shall mean a process and approval by the Planning Director as described in this chapter.

Antenna shall mean any exterior apparatus designed for telephonic, radio, data, Internet, or video communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio", "specialized mobile radio"and "personal communications services", telecommunications services, and its attendant base station.

Antenna support structure shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

Array shall mean a set of antennas for one carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

Camouflage describes a personal wireless service facility that is disguised, hidden, or integrated with an existing structure or a personal wireless service facility that is placed within an existing or proposed structure so as to be effectively hidden from view.

Co-location shall mean the location of antenna or an array of antennas on a personal wireless facility or antenna support structure by more than one personal wireless service provider.

Design shall mean the appearance of personal wireless service facilities, including such features as their materials, colors, texture, scale, and shape.

EIA shall mean the Electronics Industry Association.

Equipment enclosure shall mean a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, backup power supplies and emergency generators.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Fall zone shall mean the area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris or collapsing material.

Governing authority shall mean the City Council of the City of Lincoln.

Height shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightening rod and antenna.

Mount shall mean the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts: (i) Building mounted – a personal wireless service facility affixed to the roof or side of a building; (ii) Ground mounted – a personal wireless service facility fixed to the ground such as a tower; and (iii) Structure mounted – a personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

Partial abandonment in the case of a facility shall mean to cease use of a portion of the antenna support structure for a period of 180 or more consecutive days.

Personal wireless service, **personal wireless service facilities**, **personal wireless facilities** and **facilities** used in this chapter shall be defined in the same manner as in Title 47, United States Code, Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

Provider shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

Screening shall mean materials which effectively hide personal wireless facilities from view, or landscaping in accordance with the requirements of the "Design Standards for Zoning."

Security barrier shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

Site shall mean a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, building, accessory buildings, and parking and may include other uses associated with and ancillary to personal wireless services.

Special permit shall mean a process and approval as currently described in Chapter 27.63 of the Zoning Ordinance, or as otherwise set forth in City ordinances or regulations.

Tower shall mean any structure that is designed, constructed or used for the primary purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

Unlicensed wireless services shall mean commercial mobile services that operate on public frequencies and do not need a FCC license. (Ord. 20138 §1; January 26, 2015: prior Ord. 18602 §1; August 22, 2005: Ord. 17588 §2; January 18, 2000).

27.68.030 Permits Required.

(a) No person shall locate an antenna or tower for personal wireless services or alter an existing personal wireless services facility upon any lot or parcel except as provided in this chapter.

(b) Maintenance or repair of a personal wireless service facility and related equipment, excluding structural work or changes in height, dimensions, towers, or buildings, is excluded from the requirement to obtain an administrative or special permit. However, building permits may still be required.

(c) Installation of personal wireless service facilities requires either an administrative permit issued by the Planning Director or approval of a special permit by the Planning Commission, except co-location on existing wireless facilities previously authorized by either an administrative permit or special permit.

(1) Administrative Permit: In any zoning district, the Planning Director may issue an administrative permit approving an application to replace an existing tower or to locate a camouflaged facility or rooftop facility if the application does not exceed the permitted height in the district or the height as allowed by special permit, and will have

minimal adverse effect on the surrounding property, entryway corridors to the City, Capitol Environs District, Capitol View Corridors as described in Section 27.56.017, landmarks or landmark districts designated in accordance with Chapter 27.57, or properties listed or eligible to be listed on the National Register of Historic Places.

Within 45 days of receiving a complete application, the Planning Director shall act on the request for an administrative permit, or shall refer the application to the Historic Preservation Commission, Nebraska Capitol Environs Commission, and/or Planning Commission for public hearing as may required under Chapter 27.56, Chapter 27.57, or Chapter 27.63 of the Lincoln Municipal Code, or the other requirements of this Code.

If a request for an administrative permit is not acted upon within 45 days, or is denied, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the Planning Director, convert the request for an administrative permit to an application for a special permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder, request a special permit for its proposed facility.

(2) Special Permit: All towers and additions to existing facilities not issued or eligible for an administrative permit and all requests for a special permit shall be reviewed and evaluated, according to the procedure established in Chapter 27.63 of the Lincoln Municipal Code. In the event that the proposed special permit is denied by the Planning Commission, no new request shall be made for the same or substantially similar administrative or special permit within a period of three months after denial thereof.

Any decision to deny a special permit under this chapter shall be made in writing and shall state the specific reasons for the denial. Any denial by the Planning Commission may be appealed to the City Council. Any denial by the City Council shall be deemed a final administrative decision, subject to judicial review and appeal. (Ord. 20138 §1; January 26, 2015: prior Ord. 18602 §2; August 22, 2005; Ord. 17588 §3; January 18, 2000).

27.68.040 Term of Permit.

(Repealed by Ord. 20138 §3; January 26, 2015: prior Ord. 17588 §4; January 18, 2000).

27.68.050 Renewal Applications.

(Repealed by Ord. 20138 §4; January 26, 2015: prior Ord. 17588 §5; January 18, 2000).

27.68.060 Renewal Determinations.

(Repealed by Ord. 20138 §5; January 26, 2015: prior Ord. 17588 §6; January 18, 2000).

27.68.070 Obligation to Cure As a Condition of Renewal.

(Repealed by Ord. 20138 §6; January 26, 2015: prior Ord. 17588 §7; January 18, 2000).

27.68.080 Location Preferences.

Personal wireless facilities shall be located and designed to minimize any significant adverse effect on the abutting property. Sites shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening. The locational preferences for siting new personal wireless service facilities are listed below:

(a) Preferred Location Sites:

(1) Publicly owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(2) Privately owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(3) Publically owned sites in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(4) Sites in commercially or industrially zoned districts in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land

uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(b) Limited Preference Sites,:

(1) Sites on other public property.

(2) Sites on other commercially or industrially zoned property.

(c) Sensitive Location Sites. Sites located in areas with predominantly residential uses, environmentally sensitive areas, Capitol View Corridors, the Capitol Environs District, entryway corridors, landmarks or landmark districts, properties listed or eligible to be listed on the National Register of Historic Places, the Airport Environs, and other sensitive areas. (Ord. 17588 §8; January 18, 2000).

27.68.090 Application Requirements.

(a) Pre-Application Conference. Prior to the acceptance of an application by the City, applicants shall participate in a pre-application conference for the purposes of discussing application requirements, specifics of the site, plans for current and future facilities.

(b) Applications for either an administrative permit or a special permit for a personal wireless facility shall be filed with the Planning Director and shall include the following:

(1) A plot plan of the lot and the proposed uses drawn to an accurate scale and showing all pertinent information. The application material shall provide sufficient information, as determined by the Planning Director, to allow a complete review of the proposal. The application material shall also include sufficient detail to indicate compliance with design standards. Failure to provide adequate information may result in the rejection of the application.

(2) A statement identifying which location preference, identified in Section 27.68.080, the proposed facility is meeting. If the proposed location is not a preferred location site, describe:

(i) Whether any preferred location sites are located within the service area of the proposed personal wireless service facility;

(ii) What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;

(iii) Why the use of a preferred location site is not technologically, legally or economically feasible;

(iv) How and why the proposed site is required to meet service demands for the proposed facility and citywide network; and

(v) The distance between the proposed facility and the nearest residential unit and residentially zoned properties.

(3) A description of the security barrier surrounding the base of the tower and accessory equipment. The description should include the method of fencing, finished color and, if applicable, the method of camouflage and illumination. Access shall be through a locked gate. The tower shall either have no climbing devices attached to the lower twenty feet of the tower or shall be fitted with anti-climbing devices.

(4) A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to design, unobtrusiveness, minimum height necessary to accommodate antenna, avoidance of artificial light and coloring provisions;

(5) Provide a description of the anticipated maintenance and monitoring program for the antennae and back up equipment, including frequency of maintenance services.

(6) Provide copies of any environmental documents required by any federal agency. (Ord. 18229 §5; August 18, 2003: prior Ord. 17588 §9; January 18, 2000).

27.68.100 Standards for Evaluation.

(a) The Planning Commission may approve, by special permit, a personal wireless facility in any zoning district after review and consideration of all of the following:

(1) Conformity with Comprehensive Plan.

(2) Preference of site location in accordance with Section 27.68.080.

(3) Compatibility with abutting property and surrounding land uses.

(4) Adverse impacts such as the visual, environmental or noise impacts;

(5) Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.

(6) Scale of facility in relation to surrounding land uses.

(7) Compatibility with surrounding uses.

(8) Impact on views/vistas.

(9) Impact on landmark structures/districts, historically significant structures/districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.

(10) Impact on natural resources, open spaces, recreational trails, and other recreational resources.

(11) Color and finish.

(12) Ability to co-locate.

(13) Availability of suitable existing structures for antenna mounting.

(b) An application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower.

(c) Locations in sensitive location sites shall be considered only if the applicant:

(1) Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility; and

(2) Demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible.

(d) Personal wireless facilities approved by special permit may be allowed to exceed the height of the district in which they are located.(Ord. 17588 §10; January 18, 2000).

27.68.110 Design Criteria for Personal Wireless Service Facilities.

(a) Equipment enclosures used primarily for personal wireless service facilities: Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

(1) The maximum floor area is 450 square feet and the maximum height is twelve feet. The Planning Commission may increase the maximum area to accommodate co-location.

(2) Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in the Design Standards for Zoning.

(3) Equipment buildings mounted on a roof shall have a color, and texture similar to the exterior building walls.

(4) Equipment buildings which are located in residential zones shall be designed so as to conform in appearance with residential structures.

(5) Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent (25%) of the total roof area of a building, which may vary in the City's sole discretion if co-location and an adequate penthouse type structure are used.

(6) All base equipment and structures shall be located no closer to the property line than the minimum setback for the zone in which it is located.

(b) Security Fencing: A well-constructed fence not less than six feet in height from the finished grade shall be provided around each tower and equipment enclosure. Access to the tower shall be through a locked gate. Screening shall be in conformance with design standards.

(c) Color\Finish\Lights: The tower shall have a galvanized finish. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the necessary minimum standards therefor. The color, finish and lighting of the facility shall be specified at the time of application review. No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Options on lighting shall be indicated on the application.

(d) Antenna Accommodations. In order to reduce the number of antenna support structures needed in the City in the future, any new proposed support structure shall be designed to accommodate antenna for at least one additional provider. Area shall be reserved for other providers' equipment near the base of the applicant's tower, unless co-location is shown to be infeasible. The site plan for towers in excess of 100 feet in height must propose space for two comparable providers, while the site plan for towers of 100 feet or less in height must propose space for one comparable provider, unless co-location is shown to be infeasible.

(e) Antenna Criteria: Antenna on or above a structure shall be subject to the following:

(1) The proposal shall demonstrate that the antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris.

All support structures shall be fitted with anti-climbing devices as required in Section 27.68.090 (b)(3).

(2) Antenna attached to the wall of an existing building shall be mounted in a configuration as flush to the wall as technically possible and should not project above the wall on which it is attached, unless adequately screened.

(3) The antenna shall be architecturally compatible with the building and /or wall on which it is mounted, and designed and located so as to minimize any adverse aesthetic impact. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

(4) The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than that allowed in the applicable zoning district.

(5) If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

(6) Roof mounted antenna and related base stations shall be completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

(7) Rooftop mounts and related base stations shall be screened and integrated with the design of the building.

(8) Antenna attached to the roof of a building, an existing tower, a water tank, or a similar structure must be either:

(i) Omnidirectional or whip antenna no more than seven inches in diameter; or

(ii) Panel antenna no more than two feet wide and eight feet long.

(9) Antenna, antenna arrays, and support structures shall not extend more than the permitted height in the applicable zoning district. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.

(f) Free-standing roof-top antenna support structures: The roof-top structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and/or uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion.

(g) Fall Zone. Towers and other camouflaged support structures shall be set back a distance no less than one half than the height of the structure from property lines. The Planning Commission may grant a reduction in the required fall zone when it finds that such reduction will not adversely impact adjacent properties, and is consistent with the intent of this title to promote the public health, safety and welfare. However in no instance shall the setback be less than that required by the underlying zoning district. (Ord. 18602 §3; August 22, 2005; prior Ord. 17588 §11; January 18, 2000).

27.68.120 General Requirements.

The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.

(a) Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty

(30) days, the City may remove the tower at the owner's expense.

(b) Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall comply with the requirements of this chapter and shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

(c) Required Parking. Parking shall be required as per Chapter 27.67 of the Zoning Code.

(d) Tower Separation. An applicant will be required to demonstrate why it is necessary from a technical standpoint to have a tower within one-half (½) mile of a tower whether it is owned or utilized by applicant or another provider.

(e) Surety and Indemnity Requirements.

(1) Prior to issuance of a building permit, the applicant shall post a surety, approved by the City Attorney, with the City in the minimum amount necessary, as determined by the City, to guarantee the future removal of the facilities. The surety may not be revoked or terminated during the life of the permit. The City may use the surety for any expenses it incurs in removing any of the provider's facilities.

(2) A provider shall at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

(f) Safety Inspection Requirements. The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety. (Ord. 20138 §7; January 26, 2015: prior Ord. 17588 §12; January 18, 2000).

27.68.130 Non-use; Abandonment.

(a) Abandonment: No less than thirty (30) days prior to the date that a personal wireless service provider plans to abandon, partially abandon or discontinue operation of a facility, the provider must notify the City by certified U.S. mail of the proposed date of abandonment, partial abandonment or discontinuation of operation. In the event that a provider fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation for more than 180 days, as the case may be, on all or part of such facility. Upon such abandonment, the provider shall have sixty (60) days or such additional period of time determined in the reasonable discretion of the City within which to:

(1) Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

(2) Dismantle and remove facility. If the facility or portion thereof is not removed within the sixty (60) days time period or additional period of time allowed by the City, the City may remove such tower or portion thereof or antenna at the provider's expense. If there are two or more providers co-locating on a facility, then this provision shall not become effective until all providers cease using the facility or until a portion of the antenna support structure is no longer used.

At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the facility or a portion thereof shall automatically expire.

(b) If ownership of a facility is transferred from one provider to another, the previous provider and the new provider shall be required to notify the City of the change of ownership or transfer within thirty days of the change of ownership or transfer of the facility. The new provider shall be required to make amendments to the application that is on file with the City, in order to provide current information. The new provider shall also provide a surety in accordance with Section 27.68.120. (Ord. 20138 §8; January 26, 2015: prior Ord. 17588 §13; January 18, 2000).

27.68.140 Zoning Districts Allowed.

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district. (Ord. 17588 §14; January 18, 2000).

Chapter 27.72

HEIGHT AND LOT REGULATIONS

Sections:

27.72.010 Height and Lot Regulations AG and AGR Districts.
27.72.020 Height and Lot Regulations R-1 through R-8 Districts.
27.72.030 Height and Lot Regulations Commercial Zoning Districts.
27.72.040 Height and Lot Regulations Highway Commercial Zoning Districts.
27.72.050 Height and Area Regulations Industrial Zoning Districts.
27.72.060 Used Permitted or Prohibited Within Required Yards.
27.72.070 Additional Front Yard Requirements.
27.72.080 Exceptions to the Front Yard Requirements.
27.72.090 Exceptions to the Side Yard Requirements.
27.72.100 Exceptions to the Rear Yard Requirements.
27.72.110 Exceptions to the Height Requirements.
27.72.120 Accessory Buildings.
27.72.130 Open Space Requirements.
27.72.140 Fences.
27.72.150 Small Lots in the R-3 Zoning District.
27.72.160 Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot.
27.72.170 Building Line District.
27.72.180 Additional Exceptions to the General Requirements.
27.72.190 Minor Modifications.

27.72.010 Height and Lot Regulations AG and AGR Districts.

The maximum height and minimum lot requirements within the AG and AGR Districts shall be as follows:

(a) **AG District General Requirements**. See Table 27.72.010(a) below:

Table 27.72.010(a)
Maximum Height and Minimum Lot Requirements for the AG District

		AG	AG (farmstead splits)
All Allowed Uses	Lot Area	20 acres	1 acre
	Avg. Lot Width	550'	150'
	Frontage	550'	120'
	Front Yard	50'	50'
	Side Yard	60'	15'
	Rear Yard	100'	Lesser of 50' or 20% of the depth
	Height	35'	35'

For purposes of this section, minimum lot area, county section, and one-half section line road right-of-way are included for the purpose of determining area.

(b) **AGR District General Requirements.** See Table 27.72.010(b) below:

	Table 27.72.010(b) Maximum Height and Minimum Lot Requirements for the AGR Districts	
All Allowed Uses	Lot Area	3 acres
	Avg. Lot Width	220'
	Frontage	175'
	Front Yard	50'
	Side Yard	15'
	Rear Yard	Lesser of 50' or 20% of the depth
	Height	35'
If such lot abuts a cul-de-sac, the above requirements for average lot width and frontage may be met by providing a frontage of 175 feet measured at the required front yard line.		

(c) **Exceptions to the Minimum Lot Requirements in the AG and AGR Districts.**

(1) If a lot in the AG zoning district has less area, width, or frontage or any combination thereof than herein required, and its entire boundary was under different ownership on the effective date of this title and has not since been changed, such lot may be used in conformance with Table 27.72.010(c) below.

(2) If a lot or tract of land in the AGR zoning district has less area or width, or both less area and width, than herein required, and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such lot or tract of land may be used per 27.72.010(c) column (b) below.

(3) In the AGR zoning district, if a lot has less area, width or frontage or any combination thereof than herein required, and if on January 16, 1989, the area of the lot was one acre or more, and the average lot width of the lot was 150 feet or more and the frontage of the lot was 120 feet or more, such lot or tract of land may be used per Table 27.72.010(c) column (a) below.

Table 27.72.010(c) Exceptions to the Minimum Lot Requirements in the AG and AGR Districts		
Use Type	**(a) 10 acres or more***	**(b) Less than 10 acres**
Agriculture, except commercial feedlots	P	P
Breeding, raising, management, and sale of fur-bearing animals and the produce thereof; Dog Breeding Establishment and Kennels	P	
Stables and riding academies	P	
Public use	P	P
Single-family dwelling	P	P
Churches	P	P
Greenhouses	P	P**
Pet cemeteries	P	P***
Dwellings for religious order	P	P****

Use Type	(a) 10 acres or more*	(b) Less than 10 acres
* A lot which was 10 acres or more, but which has since been reduced in area by public acquisition for right-of-way purposes, may be devoted to any of the uses permitted for 10 acres or more if the remaining area of such lot is nine or more acres. ** Greenhouses shall be on a minimum of two acres. In addition, in the AGR zoning district, a greenhouse shall be in conformance with the requirements in Section 27.62.030(c). *** Pet cemeteries shall be on a minimum of five acres. **** In the AG zoning district, dwellings for members of a religious order shall be on a minimum of five acres.		

(4) In the AG zoning district: if two or more abutting lots in common ownership exist on the effective date of this title, each of such lots may be used for a single-family dwelling, provided, that each such lot shall contain a minimum area of two acres and shall have an average lot width of 150 feet. Abutting lots in common ownership which do not contain a minimum of two acres and an average lot width of 150 feet may be combined to meet these requirements. If any of the abutting lots in common ownership have less width or depth than herein required, the required side and rear yard may be adjusted as provided in (c)(1) and (c)(2) above, respectively.

(5) In the AG zoning district, a lot or tract of land of one acre or more may be used for a single-family dwelling or public utility and distribution system purposes provided that:

(i) For single-family dwelling use:

A. The dwelling has existed on such lot or tract of land for more than five years.

B. The dwelling is or has been used on the primary residence associated with a farm.

C. Such lot or tract of land and buildings shall be in conformance with the following maximum height and minimum lot requirements: General Requirements -- See Table 27.72.010(a) (farmstead splits).

D. However, if the lot or tract of land used for the dwelling do not meet the requirements of item Table 27.72.010(a) (farmstead splits), the single family dwelling shall be considered a non-standard use.

E. Such dwelling is in conformance with the other provisions of this title, the minimum housing code, and the minimum standards for water and sewage facilities.

(ii) For public utility and distribution system purposes:

A. Such lot or tract of land shall not be used, by itself, for any other purpose except agriculture

(6) In the AG zoning district, in all interior sections of a township, the minimum area for a buildable lot shall be one-half of the total acreage contained in that quadrant of the quarter section in which said lot is located. In all closing sections (any section of land bordering on the north or west line of a township) except those which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be as follows:

(i) For those lots located within a Government Lot (a lot created by the original government survey and recorded in the surveyor's records of Lancaster County), the minimum required area shall be one-half of the total acreage contained in said Government Lot;

(ii) For those lots which are not located within a Government Lot, the minimum required area shall be one-half of the total acreage contained in that quadrant of the quarter section in which said lot is located.

(iii) In those closing sections which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be twenty acres, provided, however that the Board of Zoning Appeals, in conformance with the terms of Chapter 27.75, may hear and decide upon petitions to vary strict application of this requirement.

(Ord. 20194 §2; May 11, 2015: prior Ord. 20137 §2; January 26, 2015: Ord. 19827 §29; February 25, 2013).

27.72.020 Height and Lot Regulations R-1 through R-8 Zoning Districts.

The maximum height and minimum lot requirements within the R-1 through R-8 Districts shall be as follows:

(a) **R-1, R-2, R-3 and R-4 General Requirements.** See Table 27.72.020(a) below:

Table 27.72.020 (a)
Maximum Height and Minimum Lot Requirements for the R-1 through R-4 Districts

		R-1	R-2	R-3	R-4
Single-family Dwelling	Lot Area (sq. ft.)	9,000	6,000	6,000	5,000
	Avg. Lot Width	60'	50'	50'	50'
	Front Yard	30'	25'	20'	25'
	Side Yard	10'	5'	5'	5'
	Rear Yard	Smaller of 20' or 20% of the lot depth			
	Height	35'	35'	35'	35'
Two-family Dwelling	Lot Area per Family (sq. ft.)	7,200	5,000	5,000	2,500
	Avg. Lot Width per Family	48'	40'	40'	25'
	Front Yard	30'	25'	20'	25'
	Side Yard (0' if party wall)	20'	10'	5'	5'
	Rear Yard	Smaller of 20' or 20% of the lot depth			
	Height	35'	35'	35'	35'
Other Allowed Uses	Lot Area (sq. ft.)	9,000	6,000	6,000	5,000
	Avg. Lot Width	60'	50'	50'	50'
	Front Yard	30'	25'	20'	25'
	Side Yard	10'	5'	5'	5'
	Rear Yard	Smaller of 30' or 20% of the lot depth			
	Height	35'	35'	35'	35'

27.72.080 Exceptions to the Front Yard Requirements.

(a) In the R-3, R-5, R-6, and R-7 where corner lots are separated by a common rear lot line, the minimum required front yard shall be ten feet on the side along the street adjacent to both corner lots.

(b) In any commercial district, including the R-T district, where the district boundary line is located on the same block face as an adjoining residential district, the front yard setback of the adjacent residential district shall apply on said block face to the abutting lot in such commercial district. In the B-3 district, such front yard setback may be reduced by one foot for every two feet of distance the building on the commercial lot is set back from the abutting residential district over and above the side yard setback required for the commercial lot, provided that for any building located within the reduced front yard setback, the building facade facing the street from which the reduced front yard setback is measured shall have a minimum of thirty percent (30%) transparency from three to nine feet above grade. If said commercial lot is a corner lot, the thirty percent (30%) transparency requirement shall also apply to the building facade not located on the same block face as the residential district unless the building is set back at least 30 feet from the street.

(c) In the AG and AGR zoning districts, the sum of (1) the distance from the centerline of abutting road to the property line, plus (2) the required front yard need not exceed 80 feet. The required front yard may be reduced, where necessary, to reach this total.

(d) In the I-1 zoning district, lots developed with buildings on the effective date of this title, the front yard shall be none except where the frontage on one side of a street between two intersecting streets is located partly in the I-1 zoning district and partly in a district that requires a front yard, in which case the front yard requirements of the adjacent district shall apply to the I-1 zoning district from the place where it abuts the other district to the next intersecting street, or for 300 feet, whichever is less.

(e) The front yards located within the same zoning district may be adjusted in the hereinafter-stated circumstances. This section shall not apply to the R-3, O-3, B-2, B-5, H-4, and I-3 zoning districts.

(1) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more main buildings that have (with a variation of five feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the greater of the front yards established by the existing main building nearest the street line.

(2) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more buildings that have a front yard of less depth than herein required, then:

(i) Where a building is to be erected on a parcel of land that is within 100 feet of existing main buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent main building on each side; or

(ii) Where a building is to be erected on a parcel of land that is within 100 feet of an existing main building on one side only, such building may be erected as close to the street as the existing adjacent main building.

(Ord. 20151 §1; February 9, 2015: prior Ord. 19827 §36; February 25, 2013).

27.72.090 Exceptions to the Side Yard Requirements.

(a) In the AG zoning district where a lot or tract of land on the effective date of this title has less width than herein required, the required side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than fifteen feet.

(b) Where a lot of record in the AGR Zoning District on November 2, 1953, has a width of 100 feet or less, the required side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

(c) In the R-1 zoning district, wherever a lot of record on November 2, 1953, had a width of 100 feet or less, the required side yard for a single-family dwelling may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

(d) Three or more front yards. The requirements of side yard on lots that are required to provide three or more front yards or their equivalent may be modified in the following circumstances:

(1) A lot in a dwelling district need provide only a side yard on an interior lot line when the required yard on the adjacent property is also a side yard.

(2) A lot in a business, commercial, or industrial district need provide only a side yard on an interior lot line unless the lot is occupied by a dwelling other than a hotel or motel, or the adjacent property is in a dwelling district, in which case the required side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than fifteen feet.

(Ord. 19827 §37; February 25, 2013).

27.72.100 Exceptions to the Rear Yard Requirements.

(a) In the AG zoning district where a lot or tract of land with an area of less than two acres on the effective date of this title has an average depth of not more than 300 feet, there shall be a required rear yard having a depth of not less than fifty feet or twenty percent of the depth of the lot, whichever is smaller.

(b) Three or more front yards: The required rear yards on lots that are required to provide three or more front yards or their equivalent may be modified in the following circumstances:

(1) A rear yard shall be required on an interior lot line when the required yard on adjacent property is a rear yard.

(2) A lot in a business, commercial, or industrial district need provide only a side yard on an interior lot line unless the lot is occupied by a dwelling other than a hotel or motel, or the adjacent property is in a dwelling district, in which case there shall be a required rear yard having a depth of not less than fifty feet or twenty percent of the depth of the lot, whichever is smaller.

(Ord. 19827 §38; February 25, 2013).

27.72.110 Exceptions to the Height Requirements.

(a) **Wind Energy Conversion Systems Over the District Height.** Wind energy conversion systems over the district height are a permitted use in the AG and AGR zoning district, provided they meet the following conditions:

(1) The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the radius of the rotor. The City Council may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare.

(2) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five rotor distances figured by the size of the largest rotor. The City Council may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS.

(3) The WECS operation shall not cause interference to the radio and television reception on adjoining property.

(4) In the AGR district, in order restrict climbing access in or to the WECS tower, a fence six feet high with a locking portal shall be placed around the WECS tower base, or the tower climbing apparatus shall be limited to no lower than twelve feet from the ground, or the WECS tower may be mounted on a roof top.

(5) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS.

(b) **Necessary Mechanical Appurtenances.** All necessary mechanical appurtenances located on top of a building are exempt from the height regulations contained in this title as follows:

(1) No such appurtenances may exceed twenty feet in height above the maximum permitted in the district in which they are located;

(2) All of said appurtenances must be set back a minimum of fifteen feet from all faces of a building when said faces are adjacent to a street.

(c) **Chimneys, Antenna Towers, and Grain Elevators.** Chimneys, cooling towers, elevator bulkheads, grain elevators, fire towers, stage towers or scenery lofts, amateur radio antenna installations not exceeding sixty-five feet in height (which includes a tower not exceeding fifty feet in height), noncommercial radio towers not exceeding fifty feet in height, wind energy conversion systems over the height of the district authorized by conditional use or special permit, or water towers are exempt from the height regulations as contained herein.

SUPPLEMENT
INSERTION GUIDE
LINCOLN MUNICIPAL CODE

December 2015

(Covering Ordinances through No. 20277)

This supplement consists of reprinted pages replacing pages in the Lincoln Municipal Code.

Remove pages listed in the column headed "Remove Old Pages" and in their places insert the pages listed in the column headed "Insert New Pages."

This Insertion Guide should be retained as a permanent record of pages supplemented and should be inserted in the front of this code.

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Checklist of Up-to-Date Pages

(Use after inserting the Supplement of 12-15)

Through usage and supplementation of the Lincoln Municipal Code on a page-for-page substitution basis, it is possible that pages can be inserted and removed in error.

The following list is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page. A similar list will be published with each succeeding Supplement.

In the first column all page numbers are listed in sequence. The second column reflects the date of the latest printing of the page as it should appear in an up-to-date volume. The letters "OC" indicate the page has not been reprinted in a supplement and appears as published for the original Code. When a page has been reprinted or added through the supplement service, this column reflects the supplement date printed on the bottom of the page.

After checking your book, you may want to order missing pages in order to bring your book up to date. These may be ordered from the City Law Department, 555 South 10th Street, Lincoln, NE 68508. Please enclose a list of the pages you need, together with 25¢ for each page (50¢ for each two-sided page) requested.

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utes. In printing, the names shall not be arranged alphabetically but shall be rotated according to the following plan: The form shall be set up by the printer with names in order in which they are placed upon the sample ballot prepared by the election commissioner. In printing the ballots for the various election districts, the positions of the names shall be changed in each office division for each election district. In making the change of position, the printer shall take the line of type containing the name at the head of each office division and place it at the bottom of that division shoving up the column so that the name that was second before the change shall be first after the change. After receiving such ballot from the election judges, endorsed by them as by law provided, the voter shall mark and cast such ballot. Any voter who shall declare that he will require assistance in voting shall be aided in the manner provided by general law. Amendment of May 1, 1979; effective June 30, 1979).

Sec. 4. General Election. The two candidates for mayor and the two candidates for district council member from each of the four districts receiving the highest number of votes at the primary to be held in the year 1995 and every four years thereafter shall be the candidates whose names shall be placed upon the official ballot for the following general city election. The six candidates for council member at large receiving the highest number of votes at the primary to be held in the year 1997 and every four years thereafter shall be the candidates whose names shall be placed upon the official ballot for the following general city election.

If, after the primary election at which candidates for the office of mayor or council member shall be nominated, a vacancy upon the ballot for the office of mayor or council member is created by the death or declination of a nominated candidate or through any cause whatsoever, such vacancy may be filled by filing petitions with the election commissioner up to sixteen days prior to the general election. The petitions must show the name and address of the candidate and the office to be filled. The petitions for mayor must bear the signatures of 1,000 qualified electors of the city. The petitions for council member, in the case of candidates for at-large council member, must bear the signatures of 500 qualified electors of the city, and in the case of candidates for district council member, must bear the signatures of 500 qualified electors from the district from which such candidate seeks election. The names of all candidates for whom sufficient petitions are filed shall be placed upon the official ballot for the general city election. (Amendment of April 4, 1995: amendment of May 11, 1982; effective July 10, 1982; amendment of November 7, 1978; effective January 6, 1979).

Sec. 5. Ballot. At the general city election at which such candidates so nominated are to be elected, the ballots shall be prepared in substantially the same general form and the names rotated as hereinbefore provided for their nomination at the primary election; and the candidate for mayor receiving the highest number of votes shall be the mayor elected; the four candidates for the office of district councilman receiving the highest number of votes shall be the councilmen elected at the election held in the year 1979 and every four years thereafter; and the three candidates for the office of councilman at large receiving the highest number of votes shall be the councilmen elected at the election held in the year 1981 and every four years thereafter. (Amendment of November 7, 1978; effective January 6, 1979).

Sec. 6. Bond of Councilman. Every councilman shall qualify and give bond to be approved by the city council, in favor of the city in the sum of two thousand dollars signed by a surety company or by two or more good and sufficient sureties, residents of the city, each of whom shall justify that he is worth at least two thousand dollars over and above his debts, liabilities and exemptions, conditioned for the faithful discharge of the duties of councilman, and conditioned further that if said councilman shall vote for an expenditure of money, or the creation of any liability in excess of the amount allowed by law, or shall vote for the transfer of any sum of money from one fund to another where such transfer is not allowed by law, such councilman and the surety or sureties signing said bond shall be liable thereon.

The mayor shall qualify and give bond to be approved by the city council, conditioned for the faithful discharge of his duties as mayor but in all other respects the same as that required of councilmen, and all of the other provisions of this section shall be applicable thereto. (Amendment of May 7, 1935).

Sec. 7. Compensation. An independent committee of citizens with expertise in business, legal, governmental, and personnel matters, appointed by the mayor, shall make a recommendation as to the appropriate salary of the city council members, including benefits. Such recommendation may be

approved as part of the annual budget resolution, provided that no increase in salary shall take effect until after the succeeding city general election. The annual salary of the mayor for each term of office shall be established by resolution of the city council adopted not later than the first day of January immediately preceding the beginning of a new mayoral term of office. Neither the mayor nor any of the council members shall be eligible to hold any other paid office or employment in the city government. (Amendment of May 11, 2004: amendment of November 8, 1994, effective May 15, 1995: amendment of May 9, 1978, effective July 9, 1978: amendment of September 9, 1974, effective November 18, 1974: amendment of May 1, 1973, effective May 14, 1973: amendment of August 27, 1962, effective May 20, 1963).

Sec. 8. Council Powers and Duties. The council shall be composed of seven members who shall be elected and known as council members. The four (4) district council members shall be elected by the people of the district in which they reside on a nonpartisan basis and the other (3) three council members shall be elected by the people on an at-large nonpartisan basis, and all council members shall serve for a term of four (4) years.

All legislative powers of the city shall be exclusively vested in the council and shall be exercised by it in the manner and subject to the limitations set forth in this charter. The council shall have the power to pass, amend, and repeal any and all ordinances and other enactments necessary or proper to execute or carry into effect any of the provisions of this charter or any of the powers herein granted, except as otherwise provided in this charter.

The council shall have the power to conduct investigations concerning any subject upon which it may legislate or the operations of any department, board, or commission engaged in the administration of city affairs. For the purposes of conducting such investigations it may employ counsel, accountants, engineers, other experts and employees. In conducting such investigations, the council shall have the power to administer oaths, subpoena witnesses, and compel the production of any books and records pertinent to such investigation. Any person who shall fail to appear in response to subpoena or shall refuse to answer any question or produce any books and records pertinent to such investigation, or shall knowingly give false testimony therein, shall be guilty of a misdemeanor and shall be subject to such penalties as may be fixed by ordinance, which the council is hereby authorized to pass, and to such other penalties as may be provided by law.

Prior to the end of each fiscal year, the council shall contract with a certified public accountant to make, as of the end of the fiscal year, an independent audit of all city funds and accounts in accordance with accepted auditing practices. The audit report shall be submitted to the council, and a copy shall be filed with the mayor immediately upon its receipt. Three (3) copies of the audit report shall be filed in the city clerk's office as a public record.

In addition to exercising its general legislative, investigatory, and audit powers, the council shall make or confirm appointments as provided by the charter, adopt a budget, set the tax levy, equalize taxes and assessments, and take such other actions as it deems necessary and as are consistent with this charter. (Amendment of May 1, 1979; effective June 30, 1979: prior amendment of May 10, 1966).

Sec. 9. Chairman and Vice Chairman of Council. The council shall, on the second Monday following each general election, elect by majority vote one of its members as chairman of the council and one of its members as vice chairman of the council. The chairman shall preside at all meetings of the council and he shall serve as acting mayor during any period in which the mayor is absent from the city or is unable to serve. The vice chairman shall preside at meetings of the council during any period in which the chairman is absent from the city or is unable to serve. During any period in which both the mayor and the chairman are absent from the city or are unable to serve, the vice chairman shall serve as acting mayor. The chairman of the council shall possess all of the rights, duties and responsibilities of a councilman and he shall be entitled to vote on any matter brought before the council notwithstanding the fact that he shall be serving as chairman. (Amendment of November 3, 1970).

Sec. 11. Council Meetings. The term of the councilmen and the mayor shall commence on the second Monday following the general city election, and they shall meet in the city hall on that day to take office and to organize for the purpose of carrying out their assigned duties. Thereafter the council shall hold at least one regular meeting in each week on such days and at such times as the council may prescribe in its rules.

Title 5

LICENSES AND REGULATIONS

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5.04 Alcoholic Liquor

5.06 Arborists

5.08 Auctions and Auctioneers

5.10 Automatic Dry Cleaners

5.12 Residential Broadband

5.15 Cable Communications

5.17 Telecommunications Ordinance

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5.41 Salvaging, Recycling and Composting Operations

5.42 Secondhand Jewelry and Watch Dealers

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5.56 Emergency Alarm Systems

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Chapter 5.12

RESIDENTIAL BROADBAND

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5.12.010 Title.

This chapter shall be known as the Residential Broadband Ordinance. (Ord. 20267 §1; December 14, 2015).

5.12.020 Purpose.

The general purposes of this ordinance are to:

(a) Provide for the franchising and regulation of systems utilizing the City's conduit system and providing broadband service within the City of Lincoln;

(b) Provide a legal framework for the deployment of broadband systems that meet the current needs of the City and that can be improved and upgraded to meet future needs;

(c) Provide for the payment of fees and other valuable consideration to the City for the use of the public ways and for the privilege to construct such systems;

(d) Provide for the development of systems as a means to improve communication between and among the members of the public and public institutions of the City; and

(e) Provide remedies and prescribe sanctions for violation of this ordinance and any franchise granted hereunder. (Ord. 20267 §2; December 14, 2015).

5.12.030 Applicability.

This ordinance is applicable to any application for a broadband system franchise filed on or after the effective date of this ordinance and to any such franchise granted thereafter. Any broadband system franchise or lease of the City's conduit system, granted prior to the effective date of this ordinance shall be subject to the provisions of this chapter, as they may be amended from time to time.

A residential broadband system franchise shall be required for any provider of broadband service that 1) is providing such service to residential customers within the city limits, and 2) utilizes any part of the City's conduit system to provide such residential broadband service, whether by direct lease with the City or by sublease with another provider. A broadband system franchise must be obtained prior to constructing such a broadband system or providing such service within the City. (Ord. 20267 §3; December 14, 2015).

5.12.040 Definitions.

For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the following meanings. Unless otherwise expressly stated, words not defined therein, shall be given their common and ordinary meaning.

A. "Agent" shall mean any contractor, subcontractor, person, or entity, other than an employee of the Franchisee, which is under the direction, control, or authorization of Franchisee to affect, install, operate and maintain Facilities owned, managed, or operated by Franchisee in the Right of Way.

B. "Broadband Facilities" means all of the plant, electronic equipment, fixtures, appurtenances, and other facilities necessary to furnish and deliver Broadband Services, including but not limited to, poles with crossarms, poles without crossarms, wires, lines, conduits, innerducts, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances used in connection with or incidental to the distribution and use associated with an Optical Fiber system.

C. "Broadband Service" means a high speed Internet access service with a minimum speed of 100 Megabits per second and provided by the Franchisee for hire, sale, or resale to the general public.

D. "City" means the City of Lincoln, Nebraska, its agencies, departments, and divisions, successors, in its present form, or in any later reorganized, consolidated, or enlarged form.

E. "City Property" means and includes all real property owned by the City, other than Right of Ways, including, without limitation, City parks and all property owned in fee by the City.

F. "Conduit" means optical cable housing, jackets or casing, and pipes, tubes, or tiles used for receiving and protecting wires, lines, cables, and communication and signal lines, including Optical Fiber.

G. "Costs" means costs, expenses, and other financial obligations of any kind whatsoever.

H. "Data Caps" means any residential customer volume limitation on the amount of data per month per household or per device connected to the System where exceeding the cap could subject a

household to alterations to its Internet access, possibly after one or more warnings, such as reduction of access speed, additional charges, suspension of service, or even termination of service.

I. "Effective Date" means five (5) days following the publication of this Ordinance or a summary thereof in an official newspaper of the City as provided by law.

J. "Emergency" means a condition of imminent danger to the health, safety, and welfare of property or persons located within the City including, without limitation, damage to persons or property from accidents or natural consequences, such as storms, earthquakes, riots, or wars.

K. "Existing" means in actual physical being upon the effective date of this Ordinance.

L. "Fiber Optic Technology" means a transmission medium capable of carrying digitized bits, bytes, or packets of communications or information (such as voice, video, or data) by means of electric lightwave impulses along a glass or plastic strand or fiber.

M. "Franchisee" refers to any person or entity that has been granted a franchise by the City in accordance with the provisions of applicable law, including any lawful successor, transferee, or assignee thereto.

N. "Franchise Territory" means all of the area within the city limits of the City as well as any area henceforth annexed thereto during the term of the Franchise.

O. "Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

P. "Obstruct" shall mean to place any tangible object or material in the Right of Way in a manner that stops, hinders, disrupts, or otherwise interferes with free and open passage over a specific area or part of the Right of Way. The term does not include the otherwise legal parking of a vehicle subject to all of the current parking regulations of the City.

Q. "Optical Fiber" means wires, lines, and cables used to convey communications or information by means of Fiber Optic Technology.

R. "Overhead Facilities" means facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

S. "Person" means a natural person, joint venture, joint stock association, or company, partnership, firm, association, club, company, corporation, limited liability company, business trust, or organization.

T. "Public Street" means the surface, the area below the surface, and the airspace above the surface, of any highway, street, road, lane, alley, unpaved alley, path, parkway, viaduct, bridge, sidewalk, or other public right of way for motor vehicle or pedestrian travel under the jurisdiction and control of the City which has been acquired, established, dedicated, or devoted to such purposes.

U. "Right of Way" means and includes all present and future: (i) Public Streets and (ii) utility easements or similar properties in which the City now or hereafter holds a property interest and/or a maintenance responsibility which, consistent with the purposes for which it was granted or dedicated, may be used to install, operate, and maintain Optical Fiber or Facilities, now or hereafter owned by or under the jurisdiction and control of the City, but only to the extent of the City's right, title, interest, or authority to grant a license or franchise to occupy and use such Right of Way for Optical Fiber or Facilities. "Right of Way" does not include City Property; State highways; land dedicated for roads or streets but not opened or improved for motor vehicle use by the public; structures, including poles and conduits, located within the public way; federally granted trust lands or forest board trust lands; lands owned or managed by the state Game and Parks Commission; federally granted railroad rights of way that are not open for motor vehicle use; or utility easements granted to utility companies (which may be reflected in a real property deed, subdivision plat, or other real property record) with respect to which the City holds no property interest or maintenance responsibility.

V. "Right of Way Construction Permit" or "ROW Construction Permit" shall mean an authorization to excavate in or obstruct Right of Way at a specific place and time in order to install, operate, and maintain Facilities within a specified portion of Right of Way.

W. "Services" means Broadband Service and the low-cost Internet access service described in Section 5, paragraph (B) hereof offered and delivered by Franchisee to Subscribers over the System within the Franchise Territory. The Franchisee shall provide at least 2 levels of service over its facilities which shall

include a basic Broadband Service equal to or greater than 100 Megabits Per Second (Mbps) and a high level Broadband Service equal to or greater than 1 Gigabit Per Second (Gbps). Except as provided in Section 5, paragraph (B), no service speed shall be offered slower than 100 Mbps unless approved by the City Council.

X. "State" means the State of Nebraska, its agencies, departments, and governmental subdivisions.

Y. "Subscriber" means any Person who entered into an agreement with Franchisee to subscribe to and is lawfully receiving Services provided by Franchisee on the Franchisee's System.

Z. "System" means Grantee's network of Optical Fiber and Facilities used to furnish and deliver Services in the Franchise Territory.

AA. "Underground Facilities" means facilities located under the surface of the ground, other than underground foundations or supports for overhead facilities.

BB. "Utility Poles" means poles, crossarms, devices, and attachments directly affixed to such poles which are used for the transmission and distribution of electrical energy, signals, or other methods of communication. (Ord. 20267 §4; December 14, 2015).

5.12.050 Requirement of a Franchise.

1. It shall be unlawful to construct, install, maintain, or operate a Broadband Facility within the City without a valid franchise obtained pursuant to the provisions of this chapter. Conversion of a franchised Broadband system to any other similar system in accordance with applicable FCC regulations shall not alter or in any way limit the terms or enforceability of the franchise granted by the City and the franchise agreement executed by the City and the franchisee.

2. Any person or entity occupying the public ways of the City for the purpose of operating or constructing a Broadband Facility, which person or entity does not hold a valid franchise from the City, shall be subject to all provisions of this chapter, to the extent permitted by law. The City at any time: (i) may require such person or entity to obtain a franchise within thirty (30) days of receipt of a written notice from the City that a franchise is required; (ii) require such person or entity to remove its property from the public ways and, at such person's or entity's sole expense, restore the area to a condition satisfactory to the City within a reasonable period of time as the City shall determine; (iii) remove the property itself and restore the area to a satisfactory condition and charge the person or entity the costs therefore; and/or (iv) take any other action permitted by law, including, but not limited to, filing for and seeking damages for trespass. In no event shall a franchise be created unless it is approved by action of the City Council and the franchise terms are set forth in a franchise agreement.

3. Any act that a franchisee is or may be required to perform under this chapter, a franchise or other applicable laws or regulations shall be performed at the franchisee's expense, unless expressly provided to the contrary in this chapter, a franchise, or applicable law. Nothing in this paragraph shall prohibit a franchisee from recovering such expenses from the franchisee's subscribers, to the extent permitted by applicable law. (Ord. 20267 §5; December 14, 2015).

5.12.060 General Franchise Characteristics.

Any franchise issued pursuant to the provisions of this chapter shall be deemed to:

(a) Authorize use of the public ways for installing cables, wires, lines, fiber, and other facilities necessary and appurtenant to the operation of a Broadband Facility within a franchise area, but shall neither expressly nor impliedly be deemed to authorize a grantee to provide service to, or install a Broadband Facility and related equipment on, private property without owner consent or to utilize publicly- or privately-owned utility poles or conduits without a separate agreement with the owners thereof;

(b) Be nonexclusive, and shall neither expressly nor impliedly be deemed to preclude the issuance of subsequent franchises to operate one or more other Broadband Facilities within the City; and shall not affect the City's right to authorize the use of public ways as the City deems appropriate;

(c) Constitute a right to operate a Broadband Facility regulated by the provisions of this chapter and a franchise;

(d) Be subordinate to, without limitation, the City's use and any prior lawful occupancy of the public ways;

(e) Be subject to the City's right to reasonably designate where a franchisee's facilities are to be placed within the public ways and to resolve any disputes among users of the public ways on a non-discriminatory basis; and

(f) Convey no property right to a franchisee or right to renewal. (Ord. 20267 §6; December 14, 2015).

5.12.070 Franchise as a Contract.

A franchise issued pursuant to the provisions of this chapter shall be deemed to constitute a contract between the franchisee and the City. A franchisee shall be deemed to have contractually committed itself to accept and comply with the terms, conditions, and provisions of the franchise documents. No franchise shall be deemed to waive or in any other way restrict the City's police powers or the franchisee's rights under state or federal law. (Ord. 20267 §7; December 14, 2015).

5.12.080 Conflicts.

(a) All terms, conditions, and provisions of this chapter and any application for a franchise shall be deemed to be embodied in a franchise, and conflicts in terms, conditions, or provisions between these documents shall be resolved as follows:

(1) The express terms of this chapter shall prevail over conflicting or inconsistent provisions of the franchise; and

(2) The express terms of a franchise shall prevail over conflicting or inconsistent provisions in a franchise application or any requests for proposals; and

(3) The express terms of any request for proposals shall prevail over conflicting or inconsistent provisions in the application for the franchise.

(b) The provisions of a franchise shall be liberally construed in order to effectuate its purposes and objectives consistent with this chapter and the public interest. In the event one or more provisions of a franchise or this chapter are subsequently found to be unlawful, null and void or unenforceable, the City shall consider said provision(s) severed from the franchise so as to continue the franchise's effectiveness. A franchise agreement shall be construed under the laws of the State of Nebraska.

Should any provision of a franchise or of this chapter be found unlawful, null, void, or unenforceable, the parties shall negotiate in good faith any replacement provisions to carry out the full intent and purpose of this agreement. (Ord. 20267 §8; December 14, 2015).

5.12.090 Company Subject to Police Power.

In accepting this Franchise, a grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power. Any conflicts between the provisions of this chapter and any other present or future lawful exercise of the City's police power shall be resolved in favor of the latter, except that any such exercise that is not of a general application in the jurisdiction or applies exclusively to grantee which contains provisions inconsistent with this chapter shall prevail only if, upon such exercise, the City finds that an emergency exists constituting a danger to health, safety, property, or general welfare or such exercise is mandated by law. (Ord. 20267 §9; December 14, 2015).

5.12.100 Franchise Validity.

A grantee shall agree, by the acceptance of a franchise, to accept the validity of the terms and conditions of this ordinance and the franchise in their entirety subject to applicable law. (Ord. 20267 §10; December 14, 2015).

5.12.110 Filing of Applications.

(a) An operator and/or owner of a Broadband system seeking an initial or renewal franchise shall file a written application with the City. The application must contain the information set forth in §5.12.120 of this chapter, and such additional information as the City may from time to time require.

(b) A franchisee requesting a modification to its franchise shall file a written application with the City. The application must contain the information set forth in §5.12.130 of this chapter, and such additional information as the City may from time to time require.

(c) To be considered accepted for filing, a fully completed, signed original application, in a form prepared by or acceptable to the City, shall be submitted as provided herein together with six copies. The application shall be accompanied by any required filing fee, shall conform to any applicable request for proposals, and shall contain all information required by the City.

(d) To the extent permitted by law, all applications accepted for filing shall be made available by the City for public inspection. (Ord. 20267 §11; December 14, 2015).

5.12.120 Content of Applications for a Broadband System Franchise.

To be acceptable for filing, an application for an initial or renewal Broadband system franchise shall, at a minimum, contain the following information:

(a) The identity of the applicant; the persons or entities who exercise working control over the applicant; and the persons or entities who control those persons or entities, to the ultimate parent entity.

(b) A proposal for construction of the Broadband system with a proposed system description including:

(1) A description of the services that are to be provided over the facility.

(2) The identification of the area of the City to be served by the facility.

(3) The location of the proposed facility and facility design, including a description of the miles of plant to be installed; a description of the size of equipment cabinets, shielding, and electronics that will be installed along the plant route; a description of the power sources that will be used; and a description of the noise, exhaust, and pollutants, if any, that will be generated by the operation of the same.

(4) A map of the route the facility will follow; a designation of the portions of the system that will be placed above-ground and the portions that will be placed underground; the construction techniques that the operator proposes to use in installing the system above-ground and underground; a schedule for construction of the facility, describing when and where construction will begin, how it will proceed, and when it will be completed; and the expected effect on right-of-way usage, including information on the ability of the public rights-of-way to accommodate the proposed system, including, as appropriate given the system proposed, an estimate of the availability of space in conduits and an estimate of the cost of any necessary rearrangement of existing facilities. To the extent plans for the facility required under this subsection have not been completed, an applicant may so state, but (i) the best available equivalent must be provided and (ii) no construction may begin, even if a franchise issues, until this information has been provided to and approved by the City. Any such grant will be conditional upon receipt and approval of this information by the City.

(5) A description, where appropriate, of how services will be converted from existing facilities to new facilities and what will be done with existing facilities.

(c) Proof, attested to by a certified public accountant, that the applicant has the financial resources to complete the proposed project and to construct, operate, maintain, and repair the proposed facility over the proposed franchise term. Such proof shall include, but not be limited to:

(1) a certified statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction proposed, to meet the time frame proposed, and to operate the system proposed. If an applicant is a joint venture or partnership, the same information shall be provided for each participant in the joint venture or partnership;

(2) pro forma financial projections for the proposed franchise term, including a statement of projected income and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules; and

(3) the applicant's proposed rate structure, including prospective charges for service, installation, converters, and all other proposed equipment for the ensuing five years.

(d) Proof that an applicant is technically qualified to construct, operate, maintain, and repair the proposed facility. At a minimum, the applicant must show that it has the experience or resources to ensure that work is to be performed adequately and can respond to emergencies during and after construction is complete.

(e) Proof that the applicant is legally qualified, which proof must include a demonstration that the applicant:

(1) has received, or is in a position to receive, necessary authorizations from state and federal authorities;

(2) has not engaged in conduct (fraud, racketeering, violation of antitrust laws, consumer protection laws, or similar laws) that allows the City to conclude the applicant cannot be relied upon to comply with the requirements of a franchise, or the provisions of this chapter and other applicable laws, regulations, and requirements; and

(3) is willing to enter into a franchise, to pay required compensation, and to abide by the provisions of applicable law, including those relating to the construction, operation, or maintenance of its facilities, and has not entered into any agreement that would prevent it from doing so.

(f) To the extent an applicant is in any respect relying on the financial or technical resources of another person or entity, including another affiliate, the proofs required under §5.12.120(c) - (d) should be provided for that person or entity.

(g) A description of the applicant's prior experience in Broadband Facility ownership, construction and operation, and an identification of cities and counties in Nebraska in which the applicant or any of its principals have a franchise or any interest therein, including the name, address, and phone number of each local franchising authority and references from each authority. If an applicant has no other franchise in Nebraska, it shall provide the information for its operations in other states.

(h) Copies of any agreements which an applicant has entered into or proposes to enter into with any other person or entity relating to the system.

(i) Any additional information that the City or the City Council may request of the applicant that is relevant to the City's consideration of the application.

(j) An affidavit or declaration of the applicant or authorized officer thereof certifying the truth and accuracy of the information in the application and certifying that the application meets all requirements of applicable law.

(k) A declaration that the applicant agrees to comply with this chapter and will abide by the City Council's decision to grant or deny a franchise. (Ord. 20267 §12; December 14, 2015).

5.12.130 Applications for Modification of a Franchise.

(a) An application for modification of a franchise shall include, at a minimum, the following information:

(1) The specific information requested;

(2) The justification for the requested modification, including the impact of the requested modification on subscribers, the City, and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of pro forma statements;

(3) Any other information the applicant believes is necessary for the City to make an informed determination on the application for modification; and

(4) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with the requirements of applicable law. (Ord. 20267 §13; December 14, 2015).

5.12.140 Applicant Representatives.

Any person who files an application with the City for a franchise or modification shall forthwith, at all times, disclose to the City, in writing, the names, addresses, and occupations of all persons who are authorized to represent or act on behalf of the applicant in those matters pertaining to the application. The requirement to make such disclosure shall continue until the City shall have rejected or approved an applicant's application or until an applicant withdraws its application. (Ord. 20267 §14; December 14, 2015).

5.12.150 Consideration of Applications for a Franchise.

(a) The City shall consider each application for a franchise where the application is found to be acceptable for filing and in full compliance with the requirements of this chapter and any applicable request

for proposals. In evaluating an application for a franchise, the City shall consider, among other things, the following factors:

(1) The extent to which the applicant has substantially complied with applicable law and the material terms of any existing franchise for the City;

(2) Whether the quality of the applicant's service under any existing franchise or similar grant in the City, including signal quality, response to consumer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served;

(3) Whether the applicant has the financial, technical, and legal qualifications to provide Broadband service;

(4) Whether the application satisfies the requirements established by the City under this chapter or in an RFP;

(5) Whether a Broadband system franchise application is reasonable to meet the future Broadband-related needs and interests of the community, taking into account the cost of meeting such needs and interests;

(6) Whether issuance of a franchise is in the public interest considering the immediate and future effect on the public ways and private property that would be used by the Broadband facility, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the public ways; and the comparative superiority or inferiority of competing applications; and

(7) Whether approval of the application may eliminate or reduce competition in the delivery of Broadband service in the City.

(b) Where the City determines that an applicant's franchise application would serve the public interest, after considering the factors in §5.12.130(a) and any other relevant factors permitted by law to be considered, and subject to the applicant's agreement to the terms of an appropriate franchise agreement, the City Council may grant a franchise to the applicant, after complying with any public hearing requirements. The franchise agreement shall constitute a contract, freely entered into, between the City and the grantee. Said franchise agreement shall incorporate by reference the relevant provisions of this chapter. Any such franchise must be approved by ordinance of the City Council pursuant to Article II, Section 2(21) of the City Charter. If the City Council denies a request for a franchise, it shall issue a written decision explaining why the franchise was denied, which decision may be in any appropriate form. Without limiting its authority to deny an application for a franchise, the City specifically reserves the right to reject any application that is incomplete or fails to respond completely to an RFP. This chapter is not intended and shall not be interpreted to grant any applicant or existing franchisee or any third party standing to challenge the denial of an application or the issuance of a franchise to another. (Ord. 20267 §15; December 14, 2015).

5.12.160 Filing Fees.

To be acceptable for filing, an application for an initial franchise, a renewal franchise, or a franchise modification shall be accompanied by a nonrefundable filing fee, payable to the City Treasurer, in the following amount or the maximum amount permitted by law, whichever is greater, to cover costs incidental to the award or modification of a franchise, as appropriate.

(a)	For an initial franchise:	$50,000.00
(b)	For modification of an existing franchise:	$15,000.00
(c)	For renewal franchises, costs incidental to the award of a franchise:	$50,000.00

In addition to the foregoing initial filing fees, an applicant shall reimburse the City for the actual costs and expenses incurred by the City that are related to, or arise in the course of, reviewing and processing each application described in subsections (a), (b), and above, including the costs of legal, engineering, accounting, and other consultants retained by the City, or services obtained by the City, to assist in reviewing the application. An applicant or franchisee, as the case may be, shall reimburse the City for any such costs within thirty (30) days of receipt of an invoice from the City. All fees and costs paid under this section shall be in addition to (and not in lieu of or offset against) all franchisee fees and other support paid or provided pursuant to this chapter and a franchise. (Ord. 20267 §16; December 14, 2015).

5.12.170 Acceptance.

A franchise and its terms and conditions shall be accepted by a grantee by written instrument, in a form acceptable to the City Attorney, and filed with the City Clerk within thirty (30) days after the granting of the franchise by the City. In its acceptance, the grantee shall declare that it has carefully read the terms and conditions of this ordinance and the franchise and accepts all of the terms and conditions of this ordinance and the franchise and agrees to abide by the same. In accepting a franchise, a grantee shall indicate that it has relied upon its own investigation of all relevant facts and that it was not induced to accept the franchise. (Ord. 20267 §17; December 14, 2015).

5.12.180 Franchise Term.

The term of a franchise shall be as specified in a franchise agreement, but shall not exceed twenty five years, except that a franchisee may apply at any time for renewal or modification. (Ord. 20267 §18; December 14, 2015).

5.12.190 Franchise Fee.

(a) A franchisee, in consideration of the privilege granted under a franchise for the use of public ways and the privilege to construct and operate a Broadband Facility, shall pay to the City a franchise fee as negotiated with the City. Every franchise shall reserve the right to increase the franchise fee to the maximum that may be charged consistent with federal and state law.

(b) The City shall have the right, consistent with the provisions of §5.12.330 of this chapter, to inspect a franchisee's books, files, and records, in whatever form or medium maintained, to audit any and all relevant books, files, and records pursuant to the Franchise Agreement, and to recompute any amounts determined to be payable under a franchise and this ordinance.

(c) In the event a franchise is revoked or otherwise terminated prior to its expiration date, the franchisee shall file with the City, within ninety (90) days of the date of revocation or termination, a gross revenue statement certified by an officer of the franchisee showing the gross revenues received by the franchisee for each revenue stream since the end of the previous year and shall make adjustments at that time for the franchise fees due up to the date of revocation or termination.

(d) Payment of the franchise fee or any other compensation hereunder shall not be considered in the nature of a tax or in lieu of other taxes, fees, or assessments imposed by the City. Unless otherwise provided by applicable law, the franchise fee and any other compensation required under this section is in addition to all other taxes, fees, and payments that a franchisee may be required to pay under its franchise or any federal, state, or local law.

(e) A franchise fee shall not designate the franchise fee or other compensation paid to the City as a tax in any communication to a subscriber unless the franchise fee has been deemed a tax under applicable law.

(f) No acceptance by or payment to the City of a franchise fee or other compensation, or any portion thereof, shall be construed as a release or an accord and satisfaction of any claim the City may have for further or additional sums due or for the performance of any other obligation of a franchisee, or as acknowledgment that the amount paid is the correct amount due.
(Ord. 20267 §19; December 14, 2015).

5.12.200 Insurance, Surety Instruments, Indemnity.

1. Indemnification. To the fullest extent permitted by law, Franchisee shall indemnify and hold harmless City, its elected officials, officers, agents, and employees, as indemnitees, from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from Franchisee's performance under this Ordinance that results in any third-party claim for damages whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom, that is caused in whole or in part by Franchisee or anyone directly or indirectly employed by Franchisee or anyone for whose acts any of them may be liable. This section will not require Franchisee to indemnify or hold harmless the City

for any losses, claims, damages, and expenses arising out of or resulting from the negligence of the City. The City does not waive its governmental immunity by adopting this Ordinance and fully retains all immunities and defenses provided by law with regard to any action based on this Ordinance. The provisions of this section survive any termination of the Franchise granted hereunder.

2. Assumption of risk. Franchisee assumes the risk of damage to its facilities located in Right of Way from activities conducted by third parties or the City, its elected officials, officers, employees, servants, agents, or representatives. Franchisee releases and waives any and all claims against the City, its elected officials, officers, employees, servants, agents, and representatives for damage to or destruction of Franchisee's facilities except to the extent any such damage or destruction is caused by or arises from active sole negligence of the City.

3. Franchisee bears sole responsibility to insure its property. Franchisee shall ensure that its insurance contracts waive subrogation claims against the City, its elected officials, officers, employees, servants, agents, and representatives, and Franchisee shall indemnify, defend, and hold harmless the City, its elected officials, officers, employees, servants, agents, and representatives against any and all subrogation claims if it fails to do so.

4. Franchisee shall obtain and maintain, at its cost, worker's compensation insurance and the following liability insurance policies insuring both the Franchisee and the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insureds against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted to Franchisee:

A. Comprehensive general liability insurance, written on an occurrence basis, with limits not less than:

i. $2,000,000.00 for bodily injury or death to each person;

ii. $1,000,000.00 for property damage resulting from any one accident; and

iii. $1,000,000.00 for all other types of liability.

B. Automobile liability for owned, non-owned, and hired vehicles with a limit of $1,000,000.00 for each person and $1,000,000.00 for each accident;

C. The liability insurance policies required by this section shall be maintained by Franchisee throughout the term of the Franchise, such other periods of time during which Franchisee's facilities occupy Right of Way, and while Franchisee is engaged in the removal of its facilities. Franchisee shall provide an insurance certificate, together with an endorsement naming the City and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insureds, to the City prior to the commencement of any construction or installation of any facilities pursuant to this Ordinance or other work in a Right of Way. Any deductibles or self-insured retentions must be declared to and approved by the City. Payment of deductibles and self-insured retentions shall be the sole responsibility of Franchisee. The insurance certificate required by this section shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Franchisee's insurance shall be primary insurance as respects the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance maintained by the City, its officers, officials, employees, consultants, agents, and volunteers shall be in excess of the Franchisee's insurance and shall not contribute with it. (Ord. 20267 §20; December 14, 2015).

5.12.210 Forfeiture and Termination.

1. The Franchise granted hereunder, and any right, privilege, or authority of Franchisee to enter, occupy, or use Right of Way may be revoked by the City for the following reasons:

A. Violation of or noncompliance with any material term or condition of this Ordinance by Franchisee;

B. Violation of or noncompliance with the material terms of any required permit by Franchisee;

C. Construction, installation, operation, maintenance, or repair of facilities on, in, under, over, across, or within any Right of Way without Franchisee first obtaining required permits from the City and all other appropriate regulatory authorities;

D. Unauthorized construction, installation, operation, maintenance, or repair of facilities on City property;

E. Misrepresentation by or on behalf of a Franchisee in any application or written or oral statement upon which the City relies in making the decision to grant, review, or amend any right, privilege, or authority to Franchisee;

F. Abandonment of facilities;

G. Failure of Franchisee to pay taxes, fees, charges, or costs when and as due; or

H. Insolvency or bankruptcy of Franchisee.

2. In the event that the City believes that grounds exist for termination or cancellation of the Franchise granted under this Ordinance or any right, privilege, or authority of Franchisee to enter, occupy, or use Right of Way, Franchisee shall be given written notice thereof by the City, together with a reasonably detailed description of the grounds for such possible revocation, and providing Franchisee a reasonable period of time not exceeding thirty (30) days to furnish evidence:

A. That corrective action has been, or is being, actively and expeditiously pursued, to remedy the violation, noncompliance, or other grounds for revocation;

B. That rebuts the alleged violation, noncompliance, or other grounds for revocation; or

C. That it would be in the public interest to impose some penalty or sanction less than revocation.

3. In the event that Franchisee fails to provide evidence reasonably satisfactory to the City as provided in subsection (2) of this section, the City shall refer the apparent violation, noncompliance, or other grounds for revocation to the City Council. The City Council shall provide the Franchisee with notice and a reasonable opportunity to be heard concerning the matter.

4. If the City Council determines that the violation, noncompliance, or other grounds for revocation arose from willful misconduct or gross negligence by Franchisee, then Franchisee shall, at the election of the City Council, forfeit all rights, privileges, and authority conferred under this Ordinance or any use and/or development authorization or permit granted by the City, and this Ordinance and any such use and/or development authorization or permit may be terminated or cancelled by the City Council. The City Council may elect, in lieu of the above and without any prejudice to any of its other legal rights and remedies, to pursue other remedies, including obtaining an order compelling Franchisee into compliance or to take corrective action, or to recover damages and costs incurred by the City by reason of Franchisee's actions or omissions.

5. The City Council's choice of remedy shall not excuse Franchisee from compliance with any term or condition of this Ordinance or the material terms of any use and/or development authorization or required permit by Franchisee. Franchisee shall have a continuing duty to remedy any violation, noncompliance, or other grounds for revocation. Further, nothing herein shall be construed as limiting any remedies that the City may have, at law or in equity, for enforcement of this Ordinance and any use and/or development authorization or permit granted to Franchisee.

6. In addition to any other remedies the City may have, violation of any provision of this Ordinance shall be deemed to be a violation of Chapter 5.12 of the Lincoln Municipal Code and subject to the penalty provisions prescribed by Lincoln Municipal Code. Franchisee shall ensure that its contractors, agents, and assigns have knowledge of the provisions of this Ordinance, and violations of the provisions of this Ordinance by Franchisee's contractors, agents, or assigns shall be deemed to be violations by Franchisee. (Ord. 20267 §21; December 14, 2015).

5.12.220 Foreclosure.

Upon the foreclosure or other judicial sale of any of the facilities, equipment, or property of a franchisee, or upon the termination of any lease covering all or a substantial part of a Broadband Facility, or upon the occasion of additional events which effectively cause termination of a Broadband Facility's operation,

a franchisee shall immediately notify the City of such fact, and such notification or the occurrence of such terminating events shall be treated as a notification that a transfer of the franchisee has taken place, and the provisions of this ordinance governing the consent of the City to such a transfer shall apply. (Ord. 20267 §22; December 14, 2015).

5.12.230 Purchase or Transfer of a Broadband System by the City.

1. If a Broadband franchise granted under this chapter expires and the renewal thereof is denied and all appeals have been exhausted, the City may acquire ownership of the Broadband Facilities and System pursuant to the provisions in the franchise, unless prohibited by applicable law binding on the City.

2. If the City terminates or forfeits a Broadband system franchise for cause, the City may acquire ownership of the Broadband system at an equitable price, unless prohibited by applicable law binding on the City.

3. Nothing in this section shall be interpreted to limit whatever powers under eminent domain the City may have.

4. Any transfer, assignment, or disposal of Franchisee's rights, privileges, and authority under this Ordinance may be subject to the following reasonable conditions:

   A. Absent extraordinary and unforeseeable circumstances, no facility shall be assigned, transferred, or disposed of before construction of the facility has been completed and restoration has been performed to the satisfaction of the City.

   B. Franchisee and the proposed assignee or transferee shall provide and certify the following information to the City not less than one hundred and eighty (180) days prior to the proposed date of assignment, transfer, or disposal:

      i. Complete information setting forth the nature, terms, and condition of the proposed assignment, transfer, or disposal;

      ii. Any other information reasonably required by the City directly related to the standards set forth in subsection 5 below; and

      iii. A transfer application fee in an amount to be determined by the City to recover actual administrative costs directly related to receiving and approving the proposed assignment, transfer, or disposal, not to exceed (i) twenty-five thousand dollars ($25,000).

5. No assignment, transfer, or disposal may be made or shall be approved unless the assignee or transferee has the legal, technical, financial, and other requisite qualifications to operate, maintain, repair, and remove facilities constructed or installed pursuant to this Ordinance and to comply with the terms and conditions of this Ordinance.

6. Any transfer, assignment, or disposal of rights, privileges, and authority under this Ordinance without prior written approval of the City pursuant to this section shall be void and is cause for termination of the Franchise.

7. Any transactions which singularly or collectively result in a change of 50% or more of the ownership or working control of the Franchisee or of the ownership or working control of affiliated entities having ownership or working control of Franchisee, shall be considered an assignment or transfer requiring City approval. Transactions between affiliated entities are not exempt from City approval. A Franchisee shall promptly notify the City prior to any proposed change in, or transfer of, or acquisition by any other party of control of Franchisee. Every change, transfer, or acquisition of control of a Franchisee shall cause a review of the proposed transfer. City approval shall not be required for mortgaging purposes.

8. It is understood that Franchisee intends to sell, lease, or license capacity on its network to third-party Internet service providers or other entities that will provide service to end users. Accordingly, the sale, lease, or license of Franchisee's network capacity, not involving transfer of ownership or working control of facilities constructed or installed pursuant to this Ordinance, shall not be deemed a transfer, assignment, or disposal subject to this section.

9. All terms and conditions of this Ordinance shall be binding upon all successors and assigns of Franchisee and all persons who obtain ownership or working control of any facility constructed or installed pursuant to this Ordinance.

10. Notwithstanding anything to the contrary in this Ordinance, the rights, privileges, and authority under this Ordinance may be assigned or transferred to any Person who at the time of the assignment or transfer controls, is controlled by, or is under common control with, Franchisee. In the event Franchisee intends to sell the facilities or system constructed or installed under this franchise, the City shall have an equal opportunity to purchase such facilities or system as other potential buyers. City shall be given the same notice and opportunities to purchase as other potential buyers. (Ord. 20267 §23; December 14, 2015).

5.12.240 Effects of Litigation.

Pending litigation or any appeal to any regulatory body or court having jurisdiction over a franchisee shall not excuse the franchisee from the performance of its obligations under this chapter or its franchise unless a stay specifically applicable to the performance of the obligation is obtained from a court or regulatory body of competent jurisdiction. Failure of the franchisee to perform such obligations because of pending litigation or a petition, in the absence of a stay issued by a court or regulatory body of competent jurisdiction, may result in forfeiture or termination pursuant to the provisions of this chapter and/or a franchise. (Ord. 20267 §24; December 14, 2015).

5.12.250 Removal of Broadband System.

At the expiration of the term for which a franchise issued hereunder is granted (and the denial of any renewal thereof and the exhaustion of all appeals), or upon its termination as provided herein, a franchisee shall forthwith, upon notice by the City, remove at its own expense all designated portions of the Broadband facility from all streets and public ways within the City, and shall restore said streets and public ways to their former condition; provided, however, the franchisee shall have the right to sell its physical plant to a subsequent franchisee, subject to City approval, in which case said plant need not be removed. If a franchisee fails to remove its facilities upon request, the City may perform the work at the franchisee's expense. Regardless of the existence or amount of any security fund, bond, or letter of credit, the obligation of a franchise to remove shall survive the termination of the franchise. This provision, however, does not require a franchisee to remove any facilities that are used to provide another service for which the franchisee holds a valid franchise or other authorization issued by the City. Nothing herein shall affect the City's right to take possession of abandoned facilities. (Ord. 20267 §25; December 14, 2015).

5.12.260 Rate Regulation.

1. The City may regulate a franchisee's rates and charges to the maximum extent permitted by law or regulation.

2. A franchisee shall provide at least one billing cycle prior written notice (or such longer period as may be specified in FCC regulations) to subscribers and to the City of any changes in rates or charges, regardless of whether or not the franchisee believes the affected rates or charges are subject to regulation, except to the extent that such notice requirement is specifically waived by governing law. (Ord. 20267 §26; December 14, 2015).

5.12.270 Reports.

Unless otherwise set forth in a franchise agreement, a franchisee shall submit to City, upon request, existing reports which are reasonably necessary or desired to determine compliance with franchise obligations and ordinance requirements.

Unless otherwise provided in the franchise agreement, such reports shall include, but not be limited to:

(1) Annual Report. No later than ninety days after the end of each of the franchisee's fiscal year, the franchisee shall file a written report with the City, which shall include:

(a) A summary of the previous calendar year's activities in development of this system, including but not limited to services begun or dropped, number of subscribers, including gains and losses, homes passed, and miles of cable distribution plants in service, including different classes if applicable.

(b) An audited financial statement, including a statement of income, a balance sheet, and a statement of sources and applications of funds. The statement shall include notes that specify all significant accounting policies and practices upon which it is based, including, but not limited to, depreciation rates and

methodology, overhead and intrasystem cost allocation methods, and basis for interest expense. A summary shall be provided comparing the current year with the three previous years. The statement shall contain a summary of franchise fee payments and any adjustment thereto as specified in §5.12.190 of this chapter. If the franchisee operates other cable systems, then, in lieu of audited financial statements of the system, the franchisee may submit the financial statement referred to above as supplementary information to the audited financial statements of its entire operations. Such audited financial statements of a multiple system operator shall contain an accountant's report stating what procedures have been applied to the supplementary information and the accountant's opinion on the supplementary information in relation to the basic financial statements taken as a whole. The franchisee shall obtain written permission from the City in advance in order to submit its financial statements in this manner and an officer of the company shall attest to the accuracy of the financial information provided.

(c) A current statement of cost of any construction by component category.

(d) An operating budget for the system for the next year and capital expenditures budget for the next two years. All significant assumptions upon which the budgets and underlying projections are based should be duly noted.

(e) A reconciliation between previously projected estimates and actual results.

(f) A summary of complaints, identifying the number and nature of complaints and their disposition.

(g) If the franchisee is a corporation, a list of officers and members of the board and the officers and board members of any parent corporation.

(h) A list of all partners or stockholders holding one percent or more ownership interest in the franchisee and any parent corporation; provided, however, that when any parent corporation has in excess of 1,000 shareholders and its shares are publicly traded on a national stock exchange, then a list of the twenty largest stockholders of the voting stock of such corporation shall be disclosed.

(i) A report of franchisee's employees in the City designed to demonstrate compliance with §5.12.360 of this chapter upon a form prescribed by the City.

(j) A copy of all the franchisee's rules and regulations applicable to subscribers and users of the cable communications system.

(k) A report relating to all copyright fees paid and copies of all reports or documents submitted to the copyright office of the Library of Congress.

(2) The City may specify the form and details of all reports, with the franchisee given an opportunity to comment in advance upon such forms and details. The City may change the filing dates for reports upon reasonable request of the franchisee. (Ord. 20267 §27; December 14, 2015).

5.12.280 Access to Books and Records.

(a) The City shall have the right, upon reasonable notice, to inspect and have franchisee copy at the City's expense, at any time during normal business hours, the documents, books, and records and other like material of a franchisee which the City deems necessary in order to monitor compliance with a franchise. Access to records and other materials shall not be denied by a franchisee on the basis that said records and materials contain trade secret, proprietary, or confidential information; provided, however, that the franchisee may require that the City enter into a reasonable confidentiality agreement prior to inspecting any records or material that the franchisee reasonably believes contains trade secret, proprietary, or confidential information which the public release thereof would harm or jeopardize the franchisee's competitive position. Documents, books, and records shall be maintained for a period of at least five (5) years, except that (i) any record that is a public record shall be maintained for the period required by state law; (ii) any contract shall be maintained until it expires; and (iii) a franchise may specify a shorter period for certain categories of voluminous documents, books, and records where the information contained therein can be derived simply from other materials. If any of the information provided by a franchisee pursuant to this chapter is false or fraudulent, the City may impose sanctions on the offending franchisee or declare its franchise forfeited, unless such action is prohibited by applicable law. In addition, failure to provide any information required by this chapter shall be grounds for appropriate remedies.

(b) For purposes of this chapter, the terms "records," "documents," and "books" shall be read expansively to include information in whatever format stored. Books, records, and documents requested shall be produced at the franchisee's local office. (Ord. 20267 §28; December 14, 2015).

5.12.290 Service Characteristics.

1. The System shall, at a minimum, provide the following capabilities and characteristics:
   - A. Net Neutrality: In the provision of Broadband Service, Franchisee shall comply with the Open Internet regulations.
   - B. No Blocking: Franchisee shall not block lawful content, applications, services, or non-harmful devices; and
   - C. No Throttling: Franchisee shall not impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or the use of non-harmful devices; and
   - D. No Paid Prioritization: Franchisee shall not engage in paid prioritization, where paid prioritization means the management of the System to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (a) in exchange for consideration (monetary or otherwise) from a third party, or (b) to benefit an affiliated entity.
   - E. No Data Caps: The Franchisee shall not assign Data Caps to Broadband Services provided within the Franchise Area.
2. Service Available to Every Residence.
   - A. Franchisee shall use commercially reasonable best efforts to extend the System to pass every residence within the Franchise Territory within the first four (4) years of the Initial Term. Commercially reasonable best efforts will take into consideration customer demand, competitive offerings from other providers, System extension costs, weather conditions, and other potential unforeseen issues outside of Franchisee's control that adversely affect the ability to extend the System within such timeframe.
   - B. The Franchisee shall offer and provide Services to all residential Subscribers under non-discriminatory rates, terms, and conditions.
   - C. The Franchisee shall not require residential contracts for service.
   - D. The Franchisee shall not charge a fee for the installation of services. In the unusual circumstance where Franchisee's installation costs are exceptionally high with respect to a particular customer (currently defined as greater than $1,500 from easement to home), Franchisee may require an installation charge. Service installations requests will be completed within a commercially reasonable time and shall not be unreasonably withheld.
   - E. The Franchisee shall not charge any fee for Service delivery modems. (Ord. 20267 §29; December 14, 2015).

5.12.300 Service to Government Buildings and Facilities.

1. Franchisee shall provide Metro Ethernet Service to no more than one hundred fifty (150) government-owned buildings, which are managed by the City, County, or Public Building Commission, and located in the Franchise Territory with no upfront or monthly recurring charges. Such service shall be made available on a non-blocking basis up to 1 Gigabit per second (Gbps) to one hundred (100) of such buildings and up to 10 Gbps to fifty (50) of such buildings. All buildings connected to the Franchisee's System shall be upgraded to 10 Gbps before the first renewal of this franchise. Replacement electronics necessary to maintain the service will be provided by the Franchisee at no additional cost.
2. Franchisee shall provide fifteen (15) Virtual Local Area Networks (VLANs) across the entire System. Public VLAN shall be provided free of charge to the City for non-competitive use. These VLAN's shall be available at every connection and termination point on the Franchisee's network.
3. Franchisee shall provide service on a non-blocking basis up to 1 Gbps to up to five hundred (500) traffic signals in the Franchise Territory for a non-recurring charge equal to the actual incremental cost (labor and materials cost only) to extend service to each traffic signal and no monthly recurring charges.

Replacement electronics necessary to maintain the service will be provided by the Franchisee at no additional cost.

4. The provision of the services described in subsections 1 and 2 above shall be subject to and contingent upon Franchisee's completion of construction of the System at such locations in accordance with its System development and extension plans, and as the City identifies the facilities to be served in such locations. Construction to all existing government buildings, facilities, and traffic signals described in subsections 1 and 2 above shall be complete by the end of the fifth (5th) year of the Initial Term. New requests for government connections shall be submitted to the Franchisee by the City. Requests will be reviewed and construction completed within one hundred and twenty (120) calendar days of receipt of the new connection request. (Ord. 20267 §30; December 14, 2015).

5.12.310 Enterprise Fund.

The revenues generated from any broadband franchise fees, conduit lease fees, fiber infrastructure support fees, conduit access permit fees and other sources arising from the activities associated with a Broadband Franchise shall be deposited by the City into a Broadband Enterprise Fund. Such Fund shall be used solely to support the construction, reconstruction, maintenance, management, operations, extensions, and other associated activities of the City's Broadband system and facilities. In addition, such Fund shall be used to support the City's telecommunication needs. (Ord. 20267 §31; December 14, 2015).

5.12.320 Institutional Services.

Franchisee agrees to promote this Ordinance through development of a Public Benefits Program, which shall consist of the following initiatives and any additional initiatives mutually agreed to by the City and Franchisee.

1. Connections for Community Organizations. Franchisee shall provide up to seventy-five (75) qualifying non-profit organizations located within the City that provide services directly to citizens ("Community Organizations") with Broadband Service at Franchisee's standard one gigabit Broadband Service offering. The service shall be provided for no recurring monthly fee and for no construction fee for a period of ten (10) years from the date of activation of the service. Participation in the program by any Community Organization shall be subject to a joint reasonable evaluation by the City and Franchisee of:

A. The proximity of the System to the Community Organization within a defined geographic area where Franchisee is offering Services;

B. The reasonable technical requirements and cost considerations;

C. The qualification and good standing as a non-profit organization under certain provisions of the Internal Revenue Code; and

D. Applicable program eligibility requirements, which shall include all of the Community Organization's other data, telecommunications, and video services, if any, being provided by Franchisee at its standard commercial rates.

Franchisee shall confer with the City to identify eligible Community Organizations and perform outreach. Following the initial ten (10) year service term, the Community Organization may continue to subscribe to some or all of the Services that Franchisee offers to similar Subscribers at then-current rates for such Services. The City understands and acknowledges that Franchisee's System design and construction plans will be based on optimal deployment of the System for residential services.

2. Low Cost and Discounted Service Tier to Low-Income Residents. Franchisee shall offer, regularly, a low cost Service tier to its residential Subscribers in accordance with this subsection. The low cost service tier shall provide a minimum of Twenty Megabits per second (20 Mbps) of speed. In addition, Franchisee shall make available a Discounted Service Tier to Low-Income Residents program based on the low cost Service tier. In order for a residential Subscriber to be eligible for the discount Service, the resident must meet all eligibility and participation requirements for the FCC's Lifeline program for discounted telephone service. The price for such discount Service tier for such qualifying low-income residential Subscribers shall reflect a discount, at the City's option, of either (a) fifteen percent (15%) off Franchisee's regular price for that tier of Broadband Service (the "Standard Discount"), or (b) thirty percent (30%) off Franchisee's regular price for that tier of Broadband Service (the "Enhanced Discount"). Franchisee shall

confer with the City to review the eligibility of existing and new Subscribers on a bi-annual basis. If the City elects to require Franchisee to apply the Enhanced Discount, then the difference between the aggregate amount of reduced Broadband Service fees received by Franchisee as a result of applying the Enhanced Discount rather than the Standard Discount shall be applied to offset the amount of franchise fees payable hereunder or any other amounts payable by Franchisee to the City. If a federal or state broadband lifeline program becomes available, then Franchisee may adopt and implement that broadband lifeline program in lieu of compliance with the provisions of this subsection 2.

3. City Wi-Fi Services. Following the complete construction of fifty (50) percent of the System and the first delivery of Services to Subscribers (the "System Completion Date"), Franchisee shall use commercially reasonable efforts to construct and deploy up to three (3) wireless access networks (each, a "Wi-Fi Network") in outdoor public areas within the City (each, a "Wi-Fi Area"), with one such Wi-Fi Area to be established within eighteen (18) months of the System Completion Date, the second Wi-Fi Area to be established within thirty-six (36) months of the System Completion Date, and the third Wi-Fi Area to be established within fifty-four (54) months of the System Completion Date. Franchisee agrees to construct, operate, and manage each Wi-Fi Network at its own cost and provide Wi-Fi Network access without fees during the initial term of this Ordinance. Use of and access to each Wi-Fi Network shall be subject to each user's acceptance of Franchisee's applicable Terms of Service. Franchisee shall confer with the City to identify and select optimal locations to deploy each Wi-Fi Network. The selection and deployment of each Wi-Fi Area shall be subject to (i) the design and proximity of the System to each Wi-Fi Area; (ii) reasonable technical requirements and cost considerations; and (iii) Franchisee's ability to secure rights to utilize limited private and public infrastructure, such as utility poles or attachment points, for purposes of constructing each Wi-Fi Network.

4. Franchisee agrees that the Public Benefits Program shall in no way modify or otherwise affect Franchisee's obligations to pay other fees to the City. The additional commitments in this Section are not to be offset or otherwise credited in any way against any franchise fee payments under this Ordinance, except as provided in subsection 2 of this section with respect to any Enhanced Discount for Broadband Service. (Ord. 20267 §32; December 14, 2015).

5.12.330 Construction and Installation Work.

1. The construction, repair, maintenance, and reconstruction of Broadband Facilities are subject to, and shall be performed in compliance with, all applicable federal, state, and City laws. The City shall have the right to inspect all construction and installation work performed by a franchisee subject to this chapter as it shall find necessary to ensure compliance with the provisions of applicable law.

2. Worker facilities, conditions, and procedures shall comply with the standards of the Occupational Safety and Health Administration. (Ord. 20267 §33; December 14, 2015).

5.12.340 Service Area.

In addition to satisfying such requirements as may be established in a franchise, every franchisee shall operate its Broadband Facility subject to the following conditions, except as prohibited by federal law:

(a) Unless otherwise set forth in a franchise agreement, it is the policy of the City that every franchisee shall extend its Broadband facility throughout its Franchise Area upon request to any person or entity. Such extension shall be provided within a reasonable period of time taking into account the circumstances. A grantee shall endeavor to complete an extension within thirty (30) days. (Ord. 20267 §34; December 14, 2015).

5.12.350 Continuity of Service.

1. It is the right of all subscribers in a franchise area to continuously receive all available services from a franchisee as long as their financial and other obligations to the franchisee are satisfied.

2. A franchisee shall ensure that all subscribers receive continuous and uninterrupted service. At the City's request, a franchisee shall, as trustee for its successor in interest, operate its Broadband facility for a temporary period (the "Transition Period") following the expiration (and denial of any renewal thereof including the exhaustion of all appeals), termination, or other revocation of its franchise, or following a

franchise transfer, as necessary to maintain service to subscribers, and shall cooperate with the City to assure an orderly transition from the existing franchisee to the successor franchisee. (Ord. 20267 §35; December 14, 2015).

5.12.360 Equal Opportunity Employment; Non-Discrimination.

1. Equal opportunity in employment shall be afforded by a franchisee to all qualified persons and no person shall be discriminated against in employment because of race, color, religion, sex, disability, national origin, ancestry, age, or marital status. A franchisee shall establish, maintain, and carry out a positive, continuing program of specific practices designed to assure equal opportunity in every aspect of company employment policy and practice. A franchisee shall immediately comply with all federal, state, and local equal opportunity employment acts and practices and shall forthwith comply with the equal employment opportunity program of the City.

2. A franchisee shall not deny service or otherwise discriminate against any person on the basis of race, color, religion, national origin, disability, ancestry, sex, marital status, or age.

3. A franchisee shall not discriminate among persons or the City, or take any retaliatory action against a person or the City because of that entity's exercise of any right it may have under federal, state, or local law, nor may the franchisee require a person or the City to waive such rights as a condition of taking service.

4. Except as federal law prohibits enforcement of this provision, a franchisee shall not deny service or levy different rates and charges on any group of potential subscribers because of the income of the residents of the local area in which such group resides. (Ord. 20267 §36; December 14, 2015).

5.12.370 No Recourse Against City.

The City shall enjoy such immunities as it otherwise has under applicable law. Nothing in this chapter or any franchise entered into hereunder shall be deemed to expand or impair any immunity otherwise available to the City. (Ord. 20267 §37; December 14, 2015).

5.12.380 Severability.

If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law, so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City or the City Council and shall thereafter be binding on a franchisee and the City. (Ord. 20267 §38; December 14, 2015).

(a) Telecommunications Facilities shall be installed within an existing underground duct or conduit to the extent technologically and economically practicable.

(b) Subject to the other provisions of this chapter and the City's Zoning Code, Telecommunications Facilities on pole attachments shall be installed to existing utility poles only, and then only if surplus space is available. Notwithstanding the foregoing, no aerial installations may be made in new development areas.

(c) Whenever all existing Telecommunications Facilities are located underground within the right-of-way, additional Telecommunications Facilities shall also be located underground.

(d) All above ground appurtenances shall be properly screened in accordance with applicable provisions of the City's Zoning Code. Such appurtenances may be placed above ground in a dedicated public utility easement ("PUE"), in the right-of-way where no PUE exists, or in City-owned property subject to an easement or other authorization between the Grantee and the City. Siting of such equipment in the public utility easement, public right-of-way, or on City-owned property shall be done in such a manner so that the line-of-sight for traffic along the right-of-way is not impaired, and any negative visual impact on the streetscape is minimized. All above ground appurtenances on a site must be screened, and clustered with other utility equipment where practical. (Ord. 17759 §47; Nov. 13, 2000).

5.17.480 Conduit Occupancy.

In furtherance of the public purpose of reduction of right-of-way excavation, it is the goal of the City to encourage both the shared occupancy of underground conduit as well as the construction, whenever possible, of excess conduit capacity for occupancy of future right-of-way occupants. The Mayor may prohibit emplacement of such facilities along the route or any part thereof for 24 months or after such other, longer period as is necessary to protect the public or to mitigate disruption or damage to the right-of-way. (Ord. 17759 §48; Nov. 13, 2000).

5.17.490 Joint Use.

Situations may occur in the future where the City or its designees may desire to place its own cable, conduit and fiber optic cable in trenches and/or bores opened by Grantees for non-competitive purposes. Therefore, as Grantees undertake construction now or in the future, Grantees shall submit these plans to the City so as to allow the City or any other public entity it may designate, the opportunity to install non-competitive facilities in the areas to be trenched or bored by the Grantees. In addition, Grantees shall cooperate with the City or its designees for non-competitive purposes in any other construction by the Grantees that involves trenching or boring, provided that the City or its designees has first notified a Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. Grantee shall allow the City or its designees to lay its cable, conduit and fiber optic cable in the Grantee's trenches and bores, provided it shares incrementally in the cost of the trenching and boring. Any request to install facilities into a trench cannot unreasonably delay Grantee's construction timeline. The City or its designees shall be responsible for maintaining its respective cable, conduit and fiber optic cable buried in the Grantee's trenches and bores under this paragraph. (Ord. 17759 §49; Nov. 13, 2000).

5.17.500 Occupancy of City Owned Conduit.

In furtherance of the same objectives of Section 5.17.480, if the City owns or leases conduit in the path of Grantee's proposed Telecommunications Facilities, and provided it is economically and technologically feasible for Grantee to occupy the conduit owned or leased by the City, Grantee shall be encouraged to occupy the conduit owned or leased by the City in order to reduce the necessity to excavate the right-of-way. (Ord. 17759 §50; Nov. 13, 2000).

5.17.510 Compensation for City Property.

If the right is granted, by lease, to use and occupy City Property which is not right-of-way, for the installation or use of Telecommunications Facilities, the compensation to be paid shall be fixed by the City. (Ord. 17759 §51; Nov. 13, 2000).

5.17.520 Construction Permit Fee.

Prior to issuance of a construction permit, the applicant shall pay a permit fee. The purpose of the construction permit fee shall, to the extent permitted by law, be to recover the City's attributable costs and expenses, including but not limited to the cost of the permit process, plan review, inspectors time and expense, staff time, the costs of consultants and engineers retained by the City, electronic map preparation and conversion when necessary, and street life diminution as a result of permittee's proposed and actual occupancy of the right-of-way. (Ord. 17759 §52; Nov. 13, 2000).

5.17.530 Regulatory Fees and Compensation Not a Tax.

The regulatory fees and costs provided for in this chapter, and any compensation charged and paid for the rights provided for herein, are separate from, and additional to, any and all federal, state, local and City taxes as may be levied, imposed or due from a Telecommunications Carrier or Telecommunications Provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of Telecommunications Services. (Ord. 17759 §53; Nov. 13, 2000).

5.17.540 Fee Review Process.

Any applicant or Grantee may initiate a review of the fees established in this chapter. Within ten days of notice of the fee determined by the City, applicant or Grantee may request the Mayor evaluate the reasonableness of the fee. (Ord. 17759 §54; Nov. 13, 2000).

5.17.550 Context.

When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. (Ord. 17759 §55; Nov. 13, 2000).

5.17.560 Ordinance Not a Contract.

The City expressly reserves the right to amend this ordinance from time to time in the exercise of its lawful powers. The provisions of this ordinance shall not be construed to create or be a contract. (Ord. 17759 §56; Nov. 13, 2000).

5.17.570 No Waiver.

The failure of the City to enforce any provision of this chapter on any occasion shall not operate as a waiver or estoppel of this right to enforce any provision of this chapter on any other occasion, nor shall the failure to enforce any prior ordinance or City Charter provisions affecting Telecommunications Facilities or Telecommunications Providers or Telecommunications Carriers act as a waiver or estoppel against application of this chapter or any other provision of applicable law. (Ord. 17759 §57; Nov. 13, 2000).

5.17.575 Telecommunication/Cable Television Advisory Board.

(a) The City may establish a Telecommunication/Cable Television Advisory Board, which shall consist of eleven members, appointed by the Mayor, subject to confirmation by majority vote of the City Council, for staggered three-year terms. Board members shall be broadly representative of the City's population with diverse backgrounds and a reasonable knowledge of telecommunications. The City Council shall appoint a City Council member to serve as one of the eleven board members. No board member shall be employed by or affiliated with a local telecommunication company in any way.

(b) The board's powers and functions shall include the following:

(1) Consider unresolved complaints and disagreements between franchisees, and subscribers and/or users of a franchised communication facility subject to Lincoln Municipal Code Chapter 5.15.

(2) Advise the City Council and Mayor regarding general policy issues of community-wide interest relating to telecommunications and technology, including issues related to cable television franchises, technology access, broadband availability, internet, Universal Service Fund topics, wireless technologies, and appropriate regulation within the City's authority regarding telecommunication systems;

(3) At the request of the City Council or Mayor, make recommendations regarding City initiatives that have an impact on cable television service, telecommunication services, communication services and associated activities. Such initiatives may include, but are not limited to, revenue, business incentives, cell towers managed by municipal providers, conduit policy, fiber sharing policy, franchise requirements and services to low income and wireless services.

(4) Perform such other duties as the City Council and Mayor may from time to time assign to the board. (Ord. 20230 §1; August 10, 2015: prior Ord. 19961 §3; December 16, 2013).

5.17.580 Penalty.

Any Person found violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor. Upon conviction any person violating any provision of this chapter shall be subject to a fine of up to five hundred dollars ($500). A separate and distinct violation shall be deemed committed each day on which a violation occurs or continues. (Ord. 17759 §58; November 13, 2000).

5.17.590 Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this chapter or its application to any Person is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof. (Ord. 17759 §59; November 13, 2000).

Title 9

PUBLIC PEACE AND WELFARE

Chapters:

9.04 Aiding or Procuring Violators of Code

9.08 Offenses by or Against Public Officers and Government

9.12 Offenses Against the Person

9.16 Offenses Against Public Decency

9.20 Offenses Against Public Peace

9.24 Offenses Relating to Property

9.28 Offenses by or Against Minors

9.30 Donation Boxes

9.32 Lotteries

9.36 Weapons

9.40 Miscellaneous Offenses

9.44 Fireworks

9.48 Alcohol and Drug Offenses

Chapter 9.04

AIDING OR PROCURING VIOLATORS OF CODE

Sections:

9.04.010 Aiding, Abetting, or Procuring Violators.

9.04.010 Aiding, Abetting, or Procuring Violators.

It shall be unlawful for any person to intentionally, knowingly, or willingly aid, abet, or procure another to commit any offense in violation of the Lincoln Municipal Code and any such person may be prosecuted and punished as if such person were the principal offender. (Ord. 15617 §1; July 9, 1990: P.C. §9.06.010: Ord. 7690 §1; April 9, 1962).

Chapter 9.08

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

9.08.010	**Refusal to Assist Officer.**
9.08.020	**Interfering with Officer Making Arrest.**
9.08.030	**Resisting Officer.**
9.08.040	**False Statement.**
9.08.050	**Compliance with Order.**
9.08.060	**Impersonating Police Officer.**
9.08.070	**Injuring Police Dogs Prohibited.**
9.08.080	**Interfering with Police Dogs Prohibited.**
9.08.090	**Fire or Emergency; False Report.**
9.08.100	**Permit to Equip Private Auto with Shortwave Receiving Set.**
9.08.110	**Failure to Appear.**

9.08.010 Refusal to Assist Officer.

It shall be unlawful for any person, who has been summoned or commanded by any police officer or other officer to assist such officer in making an arrest, to intentionally or knowingly refuse or neglect to obey such summons or command. (Ord. 15618 §1; July 9, 1990: P.C. §9.12.010: Ord. 3489 §21-505; July 6, 1936).

9.08.020 Interfering with Officer Making Arrest.

It shall be unlawful for any person to intentionally do any act or utter any word encouraging, inciting, or proposing or intending to encourage or incite, any person in the custody of a police officer of the city, or any peace officer, to prevent or hinder his or her arrest or to escape from custody; and it shall be unlawful for any person to use violence to any police officer in the execution of his duty, or to use violence to any person summoned to aid in making an arrest. (Ord. 15618 §2; July 9, 1990: P.C. §9.12.030: Ord. 13764 §1; February 13, 1984: Ord. 3489 §21-503; July 6, 1936).

9.08.030 Resisting Officer.

It shall be unlawful for any person to intentionally, knowingly, or recklessly assault, strike, physically hinder, delay, interrupt, or in any manner physically oppose any police officer of the city, or any peace officer, in making an arrest. (Ord. 15618 §3; July 9, 1990: P.C. §9.12.040: Ord. 13764 §2; February 13, 1984: Ord. 13069 §1; January 5, 1981: Ord. 3489 §21-504; July 6, 1936).

9.08.040 False Statement.

It shall be unlawful for any person to make a false statement known by such person to be false to any police officer concerning the subject of an investigation. (Ord. 15618 §4; July 9, 1990: P.C. §9.12.050: Ord. 13764 §3; February 13, 1984).

9.08.050 Compliance With Order.

It shall be unlawful for any person to intentionally or knowingly refuse to comply with an order of a police officer made in the performance of official duties at the scene of an arrest, accident, or investigation. (Ord. 15618 §5; July 9, 1990: P.C. §9.12.060: Ord. 13764 §4; February 13, 1984).

9.08.060 Impersonating Police Officer.

It shall be unlawful for any person not duly authorized or commissioned as a peace officer, as required by law, to in any manner intentionally or knowingly represent to another person, or impersonate, or attempt to impersonate that he or she is a duly authorized or commissioned peace officer. (Ord. 15618 §6; July 9, 1990: P.C. §9.52.180: Ord. 3489 §21-218, as amended by Ord. 3726; March 11, 1940).

9.08.070 Injuring Police Dogs Prohibited.

It shall be unlawful for any person to intentionally, knowingly, or recklessly tease, torture, torment, beat, kick, strike, mutilate, injure, disable, or kill any dog owned or used by the Police Department of the City of Lincoln. (Ord. 15618 §7; July 9, 1990: P.C. §9.53.010: Ord. 13902 §1; July 30, 1984: Ord. 7616 §1; December 11, 1961).

9.08.080 Interfering with Police Dogs Prohibited.

It shall be unlawful for any person to intentionally, knowingly, or recklessly interfere with, disturb, or meddle with any dog owned or used by the Police Department of the City of Lincoln while such dog is being used by said department or any member thereof in the performance of any duties or functions of said department or of such member. (Ord. 15618 §8; July 9, 1990: P.C. §9.53.015: Ord. 13902 §2; July 30, 1984).

9.08.090 Fire or Emergency; False Report.

(a) It shall be unlawful for any person to intentionally or knowingly make false alarm or report of a fire.

(b) It shall be unlawful for any person to impart or convey, or cause to be imparted or conveyed, any false information knowing the same to be false concerning the need for assistance of emergency personnel or equipment. (Ord. 15618 §9; July 9, 1990: P.C. §19.08.020: Ord. 9632 §2; November 18, 1968: Ord. 3489 §10-402; July 6, 1936).

9.08.100 Permit to Equip Private Auto with Shortwave Receiving Set.

It shall be unlawful for any person, except police officers of the city, or other duly authorized or commissioned peace officers, to equip any automobile with a shortwave length radio receiving set or use the same in such automobile without first obtaining a permit therefor from the Chief of Police of the city. Before granting such permit, the Chief of Police shall require from the permittee a sworn, written statement, that such radio receiving set will not be used to assist in the escape of any criminals or for any other unlawful purpose. (Ord. 15618 §10; July 9, 1990: P.C. §9.60.040: Ord. 3489 §36-204; July 6, 1936).

9.08.110 Failure to Appear.

(a) It shall be unlawful for any person served with a summons or set at liberty, with or without bail, upon the condition that such person will subsequently appear in court at a specific time and place, to fail or refuse to appear at that time and place to answer any charge brought under the Lincoln Municipal Code.

(b) For the purposes of this section, the word "summons" shall mean any document, including a citation, whereby a person is notified to appear in court. (Ord. 15618 §11; July 9, 1990: P.C. §30.04.060: Ord. 13973 §1; October 8, 1984).

Chapter 9.44

FIREWORKS

Sections:

9.44.010	**Fireworks Regulation; Definitions.**
9.44.020	**Fireworks; Violations; Penalties.**
9.44.030	**Fireworks; Unlawful Acts; Enumerated.**
9.44.040	**Permissible Fireworks; Retail Sale; License Required; Fee.**
9.44.050	**Fireworks Regulation; Fees Received; Deposit in General Fund.**
9.44.060	**Permissible Fireworks; Submission of Samples to Determine Safety; Duties of State Fire Marshall.**
9.44.070	**Fireworks; Sale and Use of Bottle Rockets, Skyrockets, and Like Devices Prohibited; Unlawful Acts.**
9.44.075	**Fireworks; Sale and Use of Sky Lanterns Prohibited; Unlawful Acts.**
9.44.080	**Permissible Fireworks; Sale and Use Only on July 3 and July 4; Hours of Use Restricted.**
9.44.090	**Fireworks; When Prohibition Not Applicable.**
9.44.100	**Fireworks; Unlawful Discharging, Firing, Launching, or Throwing Prohibited.**

9.44.010 Fireworks Regulation; Definitions.

For the purpose of this chapter the following words shall have the following meanings:

Fireworks shall mean any combustible or explosive composition, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

Permissible fireworks shall mean any permissible or consumer firework authorized by the laws of the State of Nebraska as safe for general use.

Retailer shall mean any person engaged in the business of making sales or fireworks at retail.

Sale shall include barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

Sky Lanterns shall mean devices that require a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air. Sky lanterns shall not include hot-air balloons used for transporting persons. (Ord. 20222 §1; August 3, 2015: prior Ord. 19374 §1; April 12, 2010: Ord. 15627 §1; July 9, 1990: P.C. §9.29.010: Ord. 13188 §1; August 10, 1981: Ord. 10535 §1; August 14, 1972).

9.44.020 Fireworks; Violations; Penalties.

Any person who shall violate any of the provisions of Sections 9.44.010 to 9.44.100 shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than $25.00 nor more than $500.00. (Ord. 15627 §2; July 9, 1990: P.C. §9.29.020: Ord. 13188 §2; August 10, 1981: Ord. 10535 §2; August 14, 1972).

9.44.030 Fireworks; Unlawful Acts; Enumerated.

Except as provided in Sections 9.44.080 and 9.44.090, it shall be unlawful for any person to possess, sell, offer for sale, bring into the city, or discharge, explode or use any pyrotechnics, commonly known as fireworks, other than permissible fireworks, except that this section shall not be construed to prohibit the transport of fireworks through the city. It shall be unlawful for any retailer to sell fireworks to any person under the age of eighteen years, and no person under the age of eighteen shall discharge, explode, or use any fireworks except under the supervision of a person eighteen years of age or older. (Ord. 18608 §1; August 29, 2005: prior Ord. 15627 §3; July 9, 1990: P.C. §9.29.030: Ord. 13188 §3; August 10, 1981: Ord. 10535 §3; August 14, 1972).

9.44.040 Permissible Fireworks; Retail Sale; License Required; Fee.

(a) It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail, any permissible fireworks in the city unless such person has first obtained a license from the city as a retailer.

(b) Any person desiring to sell or offer for sale any permissible fireworks as a retailer shall make application to the Chief of the Bureau of Fire Prevention for a license authorizing the same. Application for license as a retailer shall be filed with the Chief of the Bureau of Fire Prevention on or before June 10. Applications postmarked or received after June 10 will be assessed a $50.00 late fee. Such application shall include the following information and such additional information as the Chief shall deem necessary.

(1) The name and residence address of the applicant;

(2) The location of the premises for which the license is sought;

(3) When the license is sought in a permanent building, the application shall provide an accurate drawing or plat showing the location of the sales display within the building, together with aisles, exits, etc.

(4) When the license is sought in a temporary structure or facility, the applicant shall provide a legal description of the premises, a description of the structure or facility to be used, and the location of such structure or facility upon the premises.

After consideration of the information contained in the application for a license, the Chief of the Bureau of Fire Prevention may issue a certificate entitling the applicant to a license, conditioned upon reasonable safety measures to be specified in the certificate and upon payment by the applicant of a fee of $100.00. An inspection of the premises shall be conducted by the Bureau of Fire Prevention to confirm that the permittee has complied with the conditions of the certificate and, if the safety measures are in place, the license shall be issued. Any license issued under the provisions of this section shall be valid only for the period of June 28 through and including July 4 of the year in which issued. (Ord. 19394 §1; June 14, 2010; prior Ord. 17828 §1; April 16, 2001: Ord. 15774 §1; November 13, 1990: Ord. 15627 §4; July 9, 1990: P.C. §9.29.040: Ord. 10535 §4; August 14, 1972).

9.44.050 Fireworks Regulation; Fees Received; Deposit in General Fund.

The funds received under the provisions of Section 9.44.040 shall be deposited in the General Fund of the city. (Ord. 15627 §5; July 9, 1990: P.C. §9.29.050: Ord. 10535 §6; August 14, 1972).

9.44.060 Permissible Fireworks; Submission of Samples to Determine Safety; Duties of State Fire Marshall.

Before any permissible fireworks may be sold, held for sale, or offered for sale at retail in the city, they shall first be submitted to the State Fire Marshall for examination as provided in Section 28-1003.11 R.R.S. 1943, to determine their compliance with state law and their safety for general use. (Ord. 15627 §6; July 9, 1990: P.C. §9.29.060: Ord. 13188 §4; August 10, 1981: Ord. 10535 §6; August 14, 1972).

9.44.070 Fireworks; Sale and Use of Bottle Rockets, Skyrockets and Like Devices Prohibited; Unlawful Acts.

Fireworks commonly known as skyrockets, bottle rockets, or any other form of fireworks consisting of a case containing a combustible composition fastened to a guiding stick which is designed and manufactured to be projected through the air by the reaction resulting from the rearward discharge of gases liberated by combustion and fireworks commonly known as helicopters or any other form of fireworks which launch in their entirety and leave no base shall not be permissible fireworks within the City of Lincoln, notwithstanding any action by the State Fire Marshall to the contrary, and it shall be unlawful for any person to sell at retail, offer for sale at retail, discharge, explode, or use any of said fireworks within the city. (Ord. 15627 §7; July 9, 1990: P.C. §9.29.065: Ord. 13188 §5; August 10, 1981: Ord. 10535 §7; August 14, 1972).

9.44.075 Fireworks; Sale and Use of Sky Lanterns Prohibited; Unlawful Acts.

Fireworks commonly known as sky lanterns shall not be permissible fireworks within the City of Lincoln, notwithstanding any action by the State Fire Marshal to the contrary, and it shall be unlawful for any person to sell at retail, offer for sale at retail, discharge, explode, or use any of said fireworks within the city. (Ord. 20222 §1; August 3, 2015).

9.44.080 Permissible Fireworks; Sale and Use Only on July 3 and July 4; Hours of Use Restricted.

(a) It shall be unlawful for any person to sell at retail or offer to sell at retail any permissible fireworks within the City of Lincoln except from 8:00 a.m. to 11:00 p.m. on July 3 and from 8:00 a.m. to 11:59 p.m. on July 4 of each year.

(b) It shall be unlawful for any person to discharge, explode, or use any permissible fireworks within the City of Lincoln except from 8:00 a.m. to 11:00 p.m. on July 3 and from 8:00 a.m. to 11:59 p.m. on July 4 of each year. (Ord. 18608 §2; August 29, 2005: prior Ord. 17516 § 1; June 14, 1999: Ord. 15627 §8; July 9, 1990: P.C. §9.29.070: Ord. 13171 §1; July 13, 1981: Ord. 10535 §8; August 14, 1972).

9.44.090 Fireworks; When Prohibition Not Applicable.

The provisions of Section 9.44.030 shall not apply to:

(a) Any fireworks for purpose of public exhibitions or displays purchased from a distributor licensed under the state law or the holder of a display license issued by the State Fire Marshall as provided by state law;

(b) Any public exhibition or display under the auspices of any governmental subdivision of this state; and

(c) Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a gram of explosive material.

Any public fireworks exhibition allowed under this section shall cease by 11:59 p.m. (Ord. 20232 §1; August 24, 2015: prior Ord. 15627 §9; July 9, 1990: P.C. §9.29.080: Ord. 10535 §9; August 14, 1972).

9.44.100 Fireworks; Unlawful Discharging, Firing, Launching, or Throwing Prohibited.

It shall be unlawful for any person to discharge, fire, launch, or throw any fireworks or any object which explodes upon contact with another object:

(a) from or into any motor vehicle;
(b) onto any street, highway, or sidewalk;
(c) at or near any person;
(d) into or upon any building;
(e) into or at any group of persons; or
(f) into or upon the premises of another person.

For the purposes of this section, person shall mean any natural person or any private or public firm, partnership, or corporation. It shall further be unlawful for any person to discharge, fire, launch, or throw any fireworks from, to or on any property without the express permission of the owner of said property. (Ord. 15627 §10; July 9, 1990: P.C. §9.29.090: Ord. 13188 §6; August 10, 1981: Ord. 10535 §10; August 14, 1972).

Chapter 12.08

GENERAL RULES AND REGULATIONS

Sections:

12.08.010	**Definitions.**
12.08.020	**Vehicles in Parks.**
12.08.050	**Operation of Moped; Definition.**
12.08.060	**Speed Limit in Parks.**
12.08.070	**Unlawful to Be in Park or Park Facility After Hours; Closing Hours; Entering Closed Area.**
12.08.080	**Animals in Parks.**
12.08.090	**Parking of Vehicles; Authorized Areas.**
12.08.100	**Parking of Vehicles After Hours Prohibited.**
12.08.110	**Responsibility of Owner of Parked Vehicle.**
12.08.120	**Impounding Vehicles.**
12.08.130	**Payment in Violations Bureau.**
12.08.140	**Travel Trailers in Parks.**
12.08.160	**Advertising in Parks.**
12.08.170	**Destruction of Park Property.**
12.08.180	**Animals Running at Large.**
12.08.190	**Ornamentations; Trespass.**
12.08.200	**Weapons Prohibited in Parks and Park Facilities.**
12.08.210	**Fireworks Prohibited in Parks.**
12.08.220	**Molesting Animals.**
12.08.230	**Selling, Peddling, etc.**
12.08.240	**Fastening or Hitching Animals.**
12.08.250	**Games of Chance.**
12.08.260	**Disorderly Conduct.**
12.08.270	**Alcoholic Liquor Prohibited; Exceptions and Permit Requirements.**
12.08.280	**Rules and Regulations; Waterways.**
12.08.290	**Hitting Golf Balls Prohibited Except at Golf Courses.**
12.08.300	**Permit for Special Use of Park or Park Facility.**
12.08.310	**License for Long-Term or Multiple Use of Park or Park Facility.**
12.08.320	**Permit to Conduct Business on Park Property.**
12.08.330	**Rules and Regulations.**
12.08.340	**Penalty.**

12.08.010 Definitions.

For the purpose of Title 12, the following definitions are applicable:

Director shall mean the head of the Parks and Recreation Department as designated by the Mayor.

Fireworks shall mean any combustible or explosive composition, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation.

Fundraising activities shall mean an activity or event with the primary purpose of raising funds that is sponsored by or for the Parks and Recreation Department, any other city department, or by non-profit organizations specifically organized solely to benefit any city department, the Lincoln Children's Zoo, or the Lincoln Children's Museum.

Hiker-Biker trail shall mean a pathway within a park for recreational use.

Motor vehicle shall mean and include any vehicle propelled by power other than muscular power.

Multi-use trails shall mean the interconnected system of trails for transportation and recreational use.

Park shall mean and include any area of public ground dedicated as a park or held for the enjoyment of the public and managed and maintained by the Parks and Recreation Department within or without the limits of the city which is under the city ownership or control.

Park facility shall mean and include any swimming pool, recreation center, or any other building or facility held for the enjoyment of the public and managed and maintained by the Parks and Recreation Department within or without the limits of the city which is under the city ownership or control.

Roadway shall mean and include every way open to the use of the public for vehicular travel, including any street or highway of the city in or through any park as herein defined, and including any park drive, parkway, and park boulevard open to the public for vehicular travel. This definition shall not include the multi-use trails or the hiker-biker trails within any park. (Ord. 20207 §1; June 29, 2015: prior Ord. 19819 §1; December 17, 2012: Ord. 19716 §1; May 21, 2012: Ord. 13204 §1; September 14, 1981: Ord. 9078 §1; August 22, 1966: Ord. 3489 § 30-101, as amended by Ord. 5775; July 12, 1954).

12.08.020 Vehicles in Parks.

Except for personnel assigned to work in a park and individuals with mobility disabilities utilizing wheelchairs or other power-driven mobility devices per approved rules and regulations, it shall be unlawful for any person to operate any motor vehicle in or through any park except on a roadway. The operation of any motor vehicle on a roadway shall be subject to all of the provisions of Title 10 and to such rules and regulations as may be promulgated by the Director and approved by the Mayor. All such rules and regulations shall be filed with the office of the City Clerk, and when so filed they shall be in full force and effect. (Ord. 19716 §2; May 21, 2012: prior Ord. 13204, § 2; September 14, 1981: Ord. 9078 § 2; August 22, 1966: Ord. 3489 § 30-102, as amended by Ord. 5775; July 12, 1954).

12.08.050 Operation of Moped; Definition.

It shall be unlawful for a person to operate a moped in or through any park except on a roadway. The operation of any moped on a roadway shall be subject to all of the provisions of Title 10 and to such rules and regulations as may be promulgated by the Director and approved by the Mayor. All such rules and regulations shall be filed with the office of the City Clerk, and when so filed they shall be in full force and effect.

"Moped," for the purposes of this ordinance, shall be defined as a vehicle capable of being powered by either muscular power or an engine at the discretion of the operator. (P.C. § 12.08.023: Ord. 13204 § 4; September 14, 1981).

12.08.060 Speed Limit in Parks.

It shall be unlawful for any person to drive, operate, or propel over or along any park roadway, hiker-biker trail, or the multi-use trails any vehicle, motor vehicle, moped, bicycle, or tricycle, or to drive or ride any horse or other animal at a greater speed than twenty-five miles per hour. The Director may authorize regulations requiring a speed lower than twenty-five miles per hour on any park roadway, hiker-biker trail, or the multi-use trails or segment thereof. Such regulations shall be approved by the Mayor and filed with the office of the City Clerk. Such lower speed limits shall be posted along the portion so regulated, and upon such posting shall be in full force and effect. (Ord. 19819 §4; December 17, 2012: P.C. § 12.08.030: Ord. 13204 §5; September 14, 1981: Ord. 3489 § 30-103, amended by Ord. 5775; July 12, 1954).

12.08.070 Unlawful to Be in Park After Hours; Closing Hours; Entering a Closed Area.

(a) It shall be unlawful for any person to occupy or be present in any park or park facility during any hours during which said park or park facility is not open to the public.

(b) Subject to the provisions of subparagraphs (c), (d), (e), (f), and (g) of this section, all parks shall be opened daily to the public during the hours of 5:00 a.m. to 11:00 p.m., except Wilderness Park which shall be open from sunrise to sunset, Pioneers Park which shall be open from 6:00 a.m. to 11:00 p.m. during daylight savings time and from 7:00 a.m. to sunset during the remainder of the year, and Bill Harris Iron Horse Park and Lincoln Community Foundation Tower Square which shall be open from 6:00 a.m. to 2:00 a.m.

(c) Organized events and activities authorized by the Director of Parks and Recreation, such as outdoor athletic competitions, may extend beyond regular park closing hours but shall not extend beyond 12:00 midnight.

(d) Multi-use trails and the sidewalks on Centennial Mall shall be open twenty-four hours a day. Hiker-biker trails within parks shall be open the same hours as the associated park area.

(e) The Director of Parks and Recreation may temporarily authorize an extension of the hours during which a park shall be open to the public. Such authorization shall be in writing and shall specify the extended hours, the dates during which such extended hours shall be in effect, and the specific park or parks to which such temporarily extended hours shall apply.

(f) Any park may be declared closed to the public by the Mayor or Director of Parks and Recreation at any time or at regular or stated intervals when necessary for:

(1) the care and maintenance of the park; or

(2) the health, safety and welfare of the public; or

(3) the protection or preservation of park property. When so closed, the Director shall cause notice to be posted at the entrance to said park to notify the public that the park is closed, and when so posted it shall be unlawful for any person to enter said park; and it shall be unlawful for any person to remain in said park after oral notice by the Director, or any law enforcement officer or other duly authorized representative of the Director that said park is closed, regardless of whether or not the notice has been posted. Such authorization for the closing shall be in writing.

(g) Any extension or reduction of park hours by the Director of Parks and Recreation shall be reported to the Parks and Recreation Advisory Board at their next regularly scheduled meeting.

(h) Any person who shall violate any provision of this section shall be deemed guilty of an infraction and upon conviction shall be punished by a fine of not more than $100.00, recoverable with costs. (Ord. 20189 § 1; April 27, 2015: prior Ord. 20087 §1; August 25, 2014:Ord. 19821 §1; January 14, 2013: Ord. 19819 §5; December 17, 2012: Ord. 19716 §3; May 21, 2012: Ord. 18147 §1; March 10, 2003: Ord. 17640 §1; March 20, 2000: Ord. 15947 §1; August 19, 1991: P.C. § 12.08.035: Ord. 15191 §1 May 15, 1989: Ord. 10685 § 1; February 12, 1973).

12.08.080 Animals in Parks.

It shall be unlawful for any person to drive, ride, or lead any horse in or through any park except upon roadways or paths designated by the Director. (P.C. § 12.08.040: Ord. 13204 §6; September 14, 1981: prior Ord. 9078 §3; August 22, 1966: Ord. 8171 §1; September 3, 1963: Ord. 3489 § 30-104 as amended by Ord. 5775; July 12, 1954).

12.08.090 Parking of Vehicles; Authorized Areas. It shall be unlawful for any person to park or permit to be parked any motor vehicle or other vehicle anywhere in any park except upon parking areas designated by the Director and upon roadways where parking is not prohibited by the Director. (P.C. § 12.08.050: Ord. 9078 § 4; August 22, 1966: prior Ord. 8171 § 2; September 3, 1963: Ord. 3489 § 30-105, as amended by Ord. 5775; July 12, 1954).

12.08.100 Parking of Vehicles After Hours Prohibited.

No person shall park or permit to be parked any motor vehicle in any public park during the hours when said park is not open to the public. For purposes of enforcement of this section, the Director of Parks shall cause an appropriate sign to be posted at or near the entrance to said park or at or near the parking area affected by this section. (P.C. § 12.08.055: Ord. 10945 §1; November 13, 1973).

12.08.110 Responsibility of Owner of Parked Vehicle.

If any vehicle is found in any park in violation of any of the provisions of this chapter regulating the parking of vehicles, and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. (P.C. § 12.08.056: Ord. 10945 § 1; November 13, 1973).

12.08.120 Impounding Vehicles.

In addition to any other penalties provided by Title 12, the provisions of Chapter 10.44 of this code, regarding the impounding of vehicles shall apply to any vehicle found by a police officer to be in violation of any provisions of this chapter. (P.C. § 12.08.057: Ord. 10945 § 1; November 13, 1973).

12.08.130 Payment in Violations Bureau.

The provisions of Chapter 10.06 of this code, regarding the penalties for violation of motor vehicle parking ordinances, and the issuance and payment of parking violation tags or notices, shall apply to parking violation tags or notices issued pursuant to any provision of this chapter. (P.C. § 12.08.058: Ord. 10945 §1; November 13, 1973).

12.08.140 Travel Trailers in Parks.

It shall be unlawful for any person to park or leave standing any travel trailer unattached to a motor vehicle in any park at any time, and it shall be unlawful for any person to permit any travel trailer to be or remain in any park between the hours of 10 p.m. and 7 a.m. (Ord. 19818 §6; December 17, 2012: P.C. § 12.08.060: Ord. 3489 § 30-106, as amended by Ord. 5775; July 12, 1954).

12.08.160 Advertising in Parks.

It shall be unlawful for any person to place or erect any structure, sign, bulletin board, post, pole, or advertising device of any kind whatever in any park, or in any median islands in the public right-of-way and maintained by the city, or to attach any notice, bill, poster, sign, wire, rope, or cord to any tree, shrub, fence, railing, post, or structure in such areas, except as authorized by the Director in writing in accordance with rules and regulations that may be promulgated by the Director, approved by the Mayor, and filed with the office of the City Clerk. (Ord. 19959 §1; December 16, 2013: P.C. § 12.08.080: Ord. 13204 § 7; September 14, 1981: Ord. 9078 § 5; August 22, 1966: Ord. 8171 § 3; September 3, 1963: Ord. 3489 § 30-108, as amended by Ord. 5775; July 12, 1954).

12.08.170 Destruction of Park Property.

It shall be unlawful for any person to remove, destroy, mutilate, or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower, or other property in any park or park facility. (Ord. 19716 §4; May 21, 2012: P.C. § 12.08.090: Ord. 3489 § 30-109, as amended by Ord. 5775; July 12, 1954).

12.08.180 Animals Running at Large.

It shall be unlawful for any person to allow or permit any dog or other animal to run at large in any park, or to enter any of the lakes, ponds, fountains, or streams therein.

For the purposes of this section, the term "at large" is defined to mean not under the control of a person either by leash, cord, chain, or confinement within a vehicle or pen or other similar enclosure.

Notwithstanding the foregoing, the Director of the Parks and Recreation Department may designate certain areas to allow dogs to run at large. (P.C. § 12.08.100: Ord. 11291 §1; March 3, 1975: prior Ord. 10867 §1; July 23, 1973: Ord. 3489 § 30-110, as amended by Ord. 5775; July 12, 1954).

12.08.190 Ornamentations; Trespass.

It shall be unlawful for any person to walk, stand, sit, or climb any border, flower bed, monument, vase, fountain, railing, or fence or climb any building, sign, tree, lightpole, or cage in any park. (P.C. § 12.08.110: Ord. 13204 § 8; September 14, 1981: prior Ord. 3489 § 30-111, as amended by Ord. 5775; July 12, 1954).

12.08.200 Weapons Prohibited in Parks and Park Facilities.

(a) It shall be unlawful for any person to possess or discharge, or cause to be discharged, within any park or park facility, any firearm, including, but not limited to, any pistol, revolver, shotgun, or rifle.

(b) It shall be unlawful for any person to possess or discharge, or cause to be discharged, within any park or park facility, any air rifle, bow and arrow, crossbow, toy pistol, toy gun, slingshot, or any other air, gas, manually operated or spring operated gun, weapon, apparatus, or instrument designed or intended to be used for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether the instrument is called by any name set forth above or by any other name.

(c) Notwithstanding the foregoing, the Director of the Parks and Recreation Department may designate areas in certain parks and park facilities to allow various organized programs to engage in the activities described herein.

(d) The provisions of subsections (a) and (b) of this section shall not apply to duly authorized Parks and Recreation Department employees or law enforcement officers acting in the course of their duty. (Ord. 19959 §2; December 16, 2013: prior Ord. 17365 §1; June 29, 1998: P.C. § 12.08.120: Ord. 12600 §1; June 25, 1979: Ord. 10868 §1; July 23, 1973: Ord. 3489 § 30-112, as amended by Ord. 5775; July 12, 1954).

12.08.210 Fireworks Prohibited in Parks.

It shall be unlawful for any person to discharge, shoot, fire, or explode, or cause to be discharged, shot, fired, or exploded any rockets, powder, fireworks, or other dangerous and combustible material at any time within any parks. Notwithstanding the foregoing, the Director may allow public fireworks displays to be conducted in any park, pursuant to Section 9.44.090 of the Lincoln Municipal Code. (P.C. § 12.08.125: Ord. 13204 §9; September 14, 1981).

12.08.220 Molesting Animals.

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest, catch, injure, kill, or remove from any park any animals, including birds, reptiles, amphibians, mammals, and fish; provided, that it shall not be unlawful to catch fish pursuant to state fishing laws in city-owned ponds, lakes, and waterways, except those located within golf courses. Nothing in this section shall prevent an appropriately authorized city employee from catching or removing any animal from any park while in the performance of his/her official duties. (P.C. § 12.08.130: Ord. 13204 § 10; September 14, 1981: prior Ord. 3489 § 30-113, as amended by Ord. 5775; July 12, 1954).

12.08.230 Selling, Peddling, etc. It shall be unlawful for any person to have any commercial activity within any park, park facility, or on any roadway within any park, except as authorized by a permit to conduct business on park property pursuant to Section 12.08.320 of this chapter. (Ord. 19819 §6; December 17, 2012: prior Ord. 17640 §3; March 20, 2000: P.C. § 12.08.140: Ord. 9078 § 6; August 22, 1966: Ord. 8171 § 4; September 3, 1963: Ord. 3489 § 30-114, as amended by Ord. 5775; July 12, 1954).

12.08.240 Fastening or Hitching Animals.

It shall be unlawful for any person to hitch any horse or other animal to any tree, shrub, fence, railing, or other structure, except such as are provided for that purpose, or to allow any horse or other animal to remain unhitched beyond the reach of the driver or attendant in any park. (P.C. § 12.08.160: Ord. 3489 § 30-116 amended by Ord. 5775 July 12, 1954).

12.08.250 Games of Chance.

It shall be unlawful for any person to conduct or carry on any game of chance in any park or park facility; provided, however, the Director may approve the conduct of bingo occasions by organizations permitted by state law to conduct such bingo occasions. All such bingo occasions shall be conducted in full compliance with applicable state law. The Director may at any time revoke an approval given hereunder when such action is deemed to be in the best interests of the city. (Ord. 19959 §3; December 16, 2013: P.C. § 12.08.170: Ord. 13760 § 1; February 13, 1984: Ord. 3489 § 30-117, amended by Ord. 5775; July 12, 1954).

12.08.260 Disorderly Conduct.

It shall be unlawful for any person to conduct or carry on any boisterous or insulting language, or to be guilty of any disorderly, lewd, or lascivious conduct of any kind in any park or park facility. (Ord. 19959 §4; December 16, 2013: P.C. § 12.08.180: Ord. 3489 § 30-118, as amended by Ord. 5894; October 25, 1954).

12.08.270 Alcoholic Liquor Prohibited; Exceptions and Permit Requirements.

It shall be unlawful for any person to consume or to possess any alcoholic liquor in any park or park facility; provided, however, the above prohibition shall not apply to the following as they may be properly licensed or permitted according to the Nebraska Liquor Control Act:

(a) The retail licensed premises consisting of the clubhouse area of golf courses and outdoor areas of any 18-hole golf course;

(b) The premises of the Lincoln Children's Zoo and the Lincoln Children's Museum in conjunction with fundraising activities occurring when the zoo or museum is not otherwise open to the public;

(c) The premises of Hazel Abel Park, Stransky Park, Sunken Gardens, Antelope Park Rose Garden, Woods Park Tennis Center, and Pioneers Park Nature Center, in conjunction with fundraising activities sponsored only by and for the Parks and Recreation Department or by non-profit organizations specifically organized to benefit any city department when the premises or the area of the activity is not otherwise open to the public; and

(d) The premises of Pinewood Bowl for Parks and Recreation Department sponsored events. (Ord. 20207 §2; June 29, 2015: prior Ord. 19959 §4; December 16, 2013: Ord. 19818 §7; December 17, 2012: Ord. 19579 §1; July 25, 2011: Ord. 19120 §1; August 11, 2008: Ord. 18395 §1; June 28, 2004: Ord. 18260 §1; November 3, 2003: Ord. 17797 §1; February 26, 2001: P.C. § 12.08.190: Ord. 14482 § 1; August 25, 1986: Ord. 3489 § 3119, amended by Ord. 5894; October 25, 1954).

12.08.280 Rules and Regulations; Waterways.

(a) The Director may authorize regulations permitting wading, swimming, bathing, wind sailing, ice skating, water skiing, and the use of any flotation device on all or any portion of any pond, lake, or drainage area within any park. Such regulations may include permission for such water-related recreational activities in all such areas or any portion of any specific area within any park and may provide for general conditions for specific water-related recreational activities, which shall be posted at such areas or at the entrance to such park.

(b) All such rules and regulations shall be approved by the Mayor. The Director shall file all rules and regulations with the office of the City Clerk and when so filed they shall be in full force and effect; provided, when such water-related recreational activities are permitted in any pond, lake, or drainage area of any park, it shall be sufficient that notice be posted at the entrance to such park, or at designated areas within the park indicating the permissible area of such activity.

(c) Any person who shall wade, swim, bathe, wind sail, ice skate, water ski, or use any flotation device on any pond, lake, or drainage area within any park, unless the Director shall have given permission for such activity in the specific pond, lake, or drainage area or portion thereof as posted, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in the penalty provision of this chapter. (P.C. § 12.08.191: Ord. 13204 §11; September 14, 1981).

12.08.290 Hitting Golf Balls Prohibited Except at Golf Courses.

No person shall hit a golf ball in any park; provided, however, that this section shall not apply to anyone hitting a golf ball on a golf course or driving range in conformity with the rules of the United States Golf Association. (P.C. § 12.08.192: Ord. 13204 §12; September 14, 1981).

12.08.300 Permit for Special Use of Park or Park Facility.

(a) Notwithstanding other provisions of this chapter, the Mayor or Director may grant the special use of any park or park facility or portion thereof for a limited period of time. A permit of this nature shall not be required for rental of certain park facilities or certain uses as designated by the Director by the approved rules and regulations.

(b) The person or organization seeking such permit shall file a written application with the Parks and Recreation Department, upon a form to be furnished by the city. No permit shall be granted if the application is not fully completed and executed. The permit application shall set forth the following:

(1) The name, address, and telephone number of the person filing the application;

(2) The name, address, and telephone number of the headquarters of the organization, if an organization is involved, and of the persons who manage such organization who will oversee the use requested;

(3) The exact use for which the permit is requested;

(4) The park or park facility or portion thereof requested for such use;

(5) The dates and hours for which the use is requested;

(6) The number of persons expected to attend;

(7) If applicable, the number and types of vehicles expected, and the estimated time of arrival of all vehicles;

(8) An agreement to indemnify, save, and keep the city free and harmless from any and all loss or damages or claims, including attorney's fees and litigation costs, for damages arising from or out of such use;

(9) An agreement to comply with all related municipal ordinances, rules, regulations, and other applicable laws;

(10) A description, including the attachment, support, construction, and design of all signs and banners, subject to approval by the city as required by the rules and regulations; and

(11) Such other pertinent information as may be requested.

(c) The applicant shall, at the time of making application, pay to the city the uniform permit fee and facility fee based on the fee schedule determined by the Director and Mayor for all permits, which permit fee shall be used to defray the costs related to the issuance of such permit. Admission fees, if any, to any event shall be subject to the approval of the Director. A permit fee shall not be charged if an event is co-sponsored in partnership with the city or an event is in conjunction with fundraising activities sponsored by and for the city or by non-profit organizations specifically organized to benefit the city. The Director shall develop rules and regulations regarding approval of co-sponsorship of events.

(d) The applicant shall maintain public liability insurance for the duration of the permit in a suitable policy form with a minimum combined single limit of $1,000,000 aggregate for any one occurrence, naming the city as an additional insured. The applicant shall file a certificate of insurance with the Director at the time of making application showing:

(1) A valid and effective policy or policies of insurance issued by an insurance company authorized to do business in the State of Nebraska;

(2) The limits of each policy;

(3) The policy number;

(4) The name of the insurer;

(5) The effective date and expiration date of each policy;

(6) The deductibles or self-insurance retainers of each policy;

(7) That the city is named as an additional insured; and

(8) That the Director will be notified thirty days in advance of cancellation or material change to the insurance for any reason.

The applicant shall provide the declarations page or a copy of any policy, complete with endorsements, upon the request of the Director. Any termination, lapse, or reduction of such insurance shall automatically revoke any permit issued pursuant to this section. Waiver of the liability insurance shall be permitted provided the applicant provides written evidence of indigency and the activity is protected by the First Amendment of the United States Constitution. A waiver shall only be permissible for those permits involving use of open park land, not for use of park facilities, or for such events for which an admission fee is charged.

(e) The Director may, as part of such permit, include such conditions as the Director deems necessary for the preservation of the public health, safety, and welfare and for the protection of the park or park facility to be utilized. No applicant shall represent, advertise, promote, or otherwise publish any claim whatsoever related to city endorsement or sponsorship of the event unless authorized by the city in writing.

(f) No permit shall be issued if the Director finds that the proposed use:

(1) Will cause unreasonable injury or damage to the park or park facility requested;

(2) Conflicts with a prior permit, or a prior application that is likely to be granted, for the same park or park facility and for the same time;

(3) Will continue for a duration of such a length as may interfere with use of the park or park facility by the public, including any set-up or tear-down time;

(4) Will involve such a number of persons or activities as will exceed the reasonable capacity of the park or park facility requested;

(5) Will interfere with the provision of proper fire and police protection to the area adjacent to the park or park facility requested;

(6) Will adversely affect adjacent or neighboring properties by causing excessive noise or creating a nuisance;

(7) Will unreasonably interfere with the safe, orderly, and expeditious movement of vehicular or pedestrian traffic; or

(8) Will fail to comply in any respect with the provisions of this chapter or any other applicable law or rules or regulations adopted by the Director.

No permit shall be issued to any applicant that has unpaid or past due fees under this chapter for any prior permit, rental, or license application. Any permit may be revoked for violation of the above requirements or if the use is not conducted in a manner consistent with the representations set forth in the application or in any previous applications by the same applicant. The reason for the denial or revocation shall be provided in writing to the person or organization. A new application must be submitted if any change is made from the application as previously submitted and approved.

(g) Any person or organization aggrieved by any denial or revocation of a permit by the Mayor or Director may appeal such determination to the City Council by setting forth the details of such grievance in a letter to the Council with a copy to the Mayor. Not less than ten days after the filing of such letter, such person or organization shall personally appear before the Council to show why such person is aggrieved and why and how such determination should be modified or reversed by the Council. The City Council shall then make a final determination of the matter in controversy at or before its next regular weekly meeting and shall sustain, modify, or reverse the determination made by the Mayor or Director. (Ord. 19959 §6; December 16, 2013: P.C. § 12.08.195: Ord. 15654 § 1; July 9, 1990: Ord. 12013 § 1; June 27, 1977: Ord. 10293 § 1; November 1, 1971: Ord. 10003 § 1; June 29, 1970).

12.08.310 License for Long-Term or Multiple Use of Park or Park Facility.

(a) Notwithstanding other provisions of this chapter, the Director may grant a license for the long-term or multiple use, not to exceed one year, of Pinewood Bowl, or any athletic field, practice field, municipal swimming pool, or similar park facility to any person, persons, or organization for the purpose of holding any athletic exhibition, sports event, recreational activity, musical concert, play, show, or similar activity for which admissions may be charged.

(b) The person or organization seeking such license shall file a written application with the Parks and Recreation Department, upon a form to be furnished by the city. No license shall be granted if the application is not fully completed and executed. The license application shall set forth the following:

(1) The name, address, telephone number of the licensee, and the name of the persons who will oversee the use requested;

(2) The name, address, and telephone number of the headquarters of the organization, if an organization is involved, and of the persons who manage such organization who will oversee the use requested;

(3) The exact use for which the license is requested;

(4) The park facility requested for such use;

(5) The dates and hours for which the use is requested;

(6) The number of persons expected to attend;

(7) If applicable, the number and types of vehicles expected, and the estimated time of arrival of all vehicles;

(8) An agreement to indemnify, save, and keep the city free and harmless from any and all losses, or damage, or claims, including attorney's fees and litigation costs, for damages arising from or out of such use;

(9) An agreement to comply with all related municipal ordinances, rules, regulations and other applicable laws;

(10) A description, including the attachment, support, construction, and design of all signs and banners, subject to approval by the city as required by the rules and regulations; and

(11) Such other pertinent information or agreements as may be requested.

(c) The applicant shall, at the time of making application, pay to the city the uniform license facility fee based on the fee schedule determined by the Director and Mayor for all licenses, which license fee shall be used to defray the costs related to the issuance of such license. Admission fees, if any, to an event shall be subject to the approval of the Director. The Director shall develop rules and regulations regarding approval of co-sponsorship of events.

(d) The applicant shall maintain public liability insurance for the duration of the license in a suitable policy form with a minimum combined single limit of $1,000,000 aggregate for any one occurrence, naming the city as an additional insured. The applicant shall file a certificate of insurance with the Director at the time of making application showing:

(1) A valid and effective policy or policies of insurance issued by an insurance company authorized to do business in the State of Nebraska;

(2) The limits of each policy;

(3) The policy number;

(4) The name of the insurer;

(5) The effective date and expiration date of each policy;

(6) The deductibles or self-insurance retainers of each policy;

(7) That the city is named as an additional insured; and

(8) That the Director will be notified thirty days in advance of cancellation or material change to the insurance for any reason.

The applicant shall provide the declarations page or a copy of any policy, complete with endorsements, upon the request of the Director. Any termination, lapse, or reduction of such insurance shall automatically revoke any license issued pursuant to this section.

(e) The Director may, as part of such license, include such conditions as the Director deems necessary for the preservation of the public health, safety, and welfare and for the protection of the park or park facility to be utilized. No applicant shall represent, advertise, promote, or otherwise publish any claim whatsoever related to city endorsement or sponsorship of the event unless authorized by the city in writing.

(f) No license shall be issued if the Director finds that the proposed use:

(1) Will cause unreasonable injury or damage to the park or park facility requested;

(2) Conflicts with a prior license, or a prior application that is likely to be granted, for the same park space or facility and for the same time;

(3) Will continue for a duration of such a length as may interfere with use of the park or park facilities by the public;

(4) Will involve such a number of persons or activities as will exceed the reasonable capacity of the park or park facility requested;

(5) Will interfere with the provision of proper fire and police protection to the area adjacent to the park or park facility requested;

(6) Will adversely affect adjacent or neighboring properties by causing excessive noise or creating a nuisance;

(7) Will unreasonably interfere with the safe, orderly, and expeditious movement of vehicular or pedestrian traffic; or

(8) Will fail to comply in any respect with the provisions of this chapter or any other applicable law or rules or regulations adopted by the Director.

No license shall be issued to any applicant that has unpaid or past due fees under this chapter for any prior permit, rental or license application. Any license may be revoked for violation of the above requirements or if the use is not conducted in a manner consistent with the representations set forth in the application or in any previous applications by the same applicant. A new application must be submitted if any change is made from the application as previously submitted and approved.

(g) Any person or organization aggrieved by any denial or revocation of a license of the Mayor or Director may appeal such determination to the City Council by setting forth the details of such grievance in a letter to the City Clerk with a copy to the Mayor. Not less than ten days after the filing of such letter, such person or organization shall personally appear before the Council to show why such person is aggrieved and why and how such determination should be modified or reversed by the Council. The City Council shall then make a final determination of the matter in controversy at or before its next regular weekly meeting and shall sustain, modify, or reverse the determination made by the Mayor or Director. (Ord. 19959 §7; December 16, 2013: prior Ord. 17640 §4; March 20, 2000: P.C. § 12.08.196: Ord. 12212 §1; February 27, 1978: Ord. 11915 §1; March 11, 1977).

12.08.320 Permit to Conduct Business on Park Property.

(a) Notwithstanding other provisions of this chapter, the Director is authorized to grant a permit to conduct business upon property under the control of the Parks and Recreation Department for the purpose of selling refreshments, equipment rentals, sales of merchandise related to a special event, collection of admission fees, collection of donations, or other services which would further the public use and enjoyment of the parks and park facilities. Such permit shall be granted as a privilege only and subject to revocation by the city at any time, and provided, further, that no concession shall be granted which would unreasonably interfere with the use of parks or park facilities by the public. A permit may be granted in conjunction with a permit for special use of park property or license or may be granted independently. Any permit granted which allows the sale of food, beverage, or food- or beverage-related items shall be subject to all applicable health regulations.

(b) The person or organization seeking permission for a permit to conduct business on park property shall file an application with the Parks and Recreation Department, upon a form to be furnished by the city. No permit shall be granted if the application is not fully completed and executed. The permit application shall set for the following:

(1) The name, address, and telephone number of the person filing the application;

(2) The name, address, and telephone number of the headquarters of the organization, if an organization is involved, and of the persons who manage such organization who will oversee the business activity;

(3) The activity which is proposed;

(4) The park or park facility or portion thereof requested for such activity;

(5) The dates and hours for which the activity is requested;

(6) An agreement to save, indemnify and keep the city free and harmless from any and all loss or damages or claims, including attorney's fees and litigation costs, arising from or out of such activity;

(7) An agreement to comply with all related municipal ordinances, rules, regulations and other applicable laws; and

(8) Such other pertinent information, insurance or agreements as may be requested.

(c) The applicant shall, at the time of making application, pay to the city a uniform permit fee to be determined by the Director and Mayor for all permits, which fee shall be used to defray the costs related to the issuance of such a permit, unless the applicant is involved in business activities as part of an event co-sponsored by the city.

(d) The Director may, as part of such permit, include such conditions as the Director deems necessary for the preservation of the public health, safety, and welfare and for the protection of the park or park facility to be utilized, including the requirement of signed waivers from all participants in recreational activities. A permit shall not constitute city endorsement or sponsorship of the use unless the activity is co-sponsored, and no applicant shall represent, advertise, promote, or otherwise publish any claim whatsoever related to city endorsement or sponsorship of the activity unless authorized by the city in writing.

(e) No permit shall be issued if the Director finds that the proposed use:

(1) Will cause unreasonable injury or damage to the park or park facility requested;

(2) Conflicts with a prior permit, or a prior application that is likely to be granted, for the same park space or facility and for the same time;

(3) Will continue for a duration of such a length as may interfere with use of the park or park facilities by the public, including any set-up or tear-down time;

(4) Will involve such a number of persons or activities as will exceed the reasonable capacity of the park or park facility requested;

(5) Will interfere with the provision of proper fire and police protection to the area adjacent to the park or park facility requested;

(6) Will adversely affect adjacent or neighboring properties by causing excessive noise or creating a nuisance;

(7) Will unreasonably interfere with the safe, orderly, and expeditious movement of vehicular or pedestrian traffic; or

(8) Will fail to comply in any respect with the provisions of this chapter or any other applicable law or rules or regulations adopted by the Director.

No permit shall be issued to any applicant that has unpaid or past due fees under this chapter for any prior permit, rental or license application. Any permit may be revoked for violation of the above requirements or if the use is not conducted in a manner consistent with the representations set forth in the application or in any previous applications by the same applicant. A new application must be submitted if any change is made from the application as previously submitted and approved. (Ord. 19959 §8; December 16, 2013: prior Ord. 17640 §5; March 20, 2000: P.C. § 12.08.197: Ord. 11915 § 2; March 11, 1977).

12.08.330 Rules and Regulations.

In addition to the specific authorizations aforementioned, the Director is authorized to promulgate rules and regulations governing the use or activities in any park for the health, safety, and welfare of the public provided that such rules and regulations shall not be inconsistent with the Charter or with the Lincoln Municipal Code. Such regulations shall be approved by the Mayor and filed with the office of the City Clerk, and when so filed they shall be in full force and effect. (P.C. § 12.08.200: Ord. 13204 §14; September 14, 1981: prior Ord. 9078 §7; August 22, 1966: Ord. 8171 §5; September 3, 1963: Ord. 3489 § 30-120, as amended by Ord. 5775; July 12, 1954).

12.08.340 Penalty.

Any person who shall violate any provision of Title 12 or any rule or regulation adopted hereunder for which a penalty is not otherwise specifically provided shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the city jail for a period of not to exceed six months, or by a fine of not to exceed $500.00, recoverable with costs, or both. Each day that a violation of this title or of the rules and regulations promulgated hereunder continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 20189 §2; April 27, 2015; P.C. § 12.08.210: Ord. 13204 § 15; September 1, 1981).

[Chapter 12.12 - Policing Parks Outside City
Repealed by Ord. 19819 §7, December 27, 2012; prior Ord. 3489 § 30-201; July 6, 1936]

Chapter 19.03

FIRE CODE

Sections:

19.03.010	Code Adopted.
19.03.020	Section 101.1 Amended; Title.
19.03.030	Section 103.1 Amended; Organization of the Bureau of Fire Prevention.
19.03.040	Sections 103.2, 103.3, 103.4, 103.4.1; Deleted.
19.03.050	Section 104.10 Amended; Fire Investigations.
19.03.060	Section 104.11 Amended; Authority at Fires and Other Emergencies.
19.03.070	Section 104.11.1 Amended; Authority at Fires and Other Emergencies; Authority to Barricade.
19.03.080	Section 104.11.2 Amended; Authority at Fires and Other Emergencies; Interference.
19.03.090	Section 105.4.7 Added; New Construction and Alterations.
19.03.100	Section 105.6 Amended; Permits and Permit Fees.
19.03.110	Section 106.5 Added; Inspection Requests.
19.03.120	Section 108 Amended; Board of Appeals.
19.03.125	Section 202 Amended; General Definitions.
19.03.130	Section 304.3.5 Added; Manufactured Home Skirting.
19.03.131	Section 307.6 Added; Extinguishment Authority.
19.03.132	Section 308.1.2.1 Added; Sky Lanterns.
19.03.133	Section 903.2.7 Exception 4 Deleted; Group M Sprinkler Requirements.
19.03.135	Section 903.2.8 Exception Added; Group R Sprinkler Requirements.
19.03.140	Section 903.4.1 Amended; Monitoring.
19.03.144	Section 907.2.9 Amended; Group R-2.
19.03.145	Section 1004.1.1 Exception Deleted; Areas Without Fixed Seating.
19.03.147	Section 1014.2.1 Exception Deleted; Exit Access; Multiple Tenants.
19.03.150	Section 1504.9 Amended; Limited Spraying Spaces.
19.03.160	Section 3301.1 Amended; Fireworks.
19.03.170	Section 3308.3 Amended; Approved Displays.
19.03.220	Copies Filed with City Clerk.
19.03.225	Fire Code Task Force Created.
19.03.230	Additional Definitions.
19.03.240	Penalty.
19.03.250	Severability.

19.03.010 Code Adopted.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, there is hereby adopted the "International Fire Code," 2012 Edition, save and except such portions as are hereinafter deleted, modified, or amended. (Ord. 20259 §1; October 19, 2015: prior Ord. 19558 §1; June 20, 2011: Ord. 19032 §1; January 7, 2008: Ord. 17998 §1; May 13, 2002).

19.03.020 Section 101.1 Amended; Title.

Section 101.1 of the International Fire Code is amended to read as follows:

101.1 Title. These regulations shall be known as the Fire Code of the City of Lincoln, Nebraska, hereinafter referred to as "this code." (Ord. 17998 §2; May 13, 2002).

19.03.030 Section 103.1 Amended; Organization of the Bureau of Fire Prevention.

Section 103.1 of the International Fire Code is amended to read as follows:

103.1 Organization of the bureau of fire prevention. The bureau of fire prevention is established within the department of building and safety under the direction of the code official. The bureau shall consist of such personnel as may be assigned thereto by the director of building and safety who is hereby designated as the code official as defined in Section 202 of this code. The function of this bureau shall be to assist the code official in the administration and enforcement of the fire prevention provisions of this code. The bureau of fire prevention with the assistance of the fire and rescue department shall provide education and training to schools, hospitals, public and private organizations and institutions on fire precaution practices and evacuation procedures. The bureau of fire prevention shall coordinate all these activities. (Ord. 18170 §28; April 28, 2003: prior Ord. 17998 §3; May 13, 2002).

19.03.040 Sections 103.2, 103.3, 103.4, 103.4.1; Deleted.

Sections 103.2, 103.3, 103.4, and 103.4.1 of the International Fire Code are hereby deleted. (Ord. 17998 §4; May 13, 2002).

19.03.050 Section 104.10 Amended; Fire Investigations.

Section 104.10 of the International Fire Code is amended to read as follows:

104.10 Fire investigations. The bureau of fire prevention shall have the authority to investigate the cause, origin and circumstances of any fire, explosion or other hazardous condition. Information that could be related to trade secrets of processes shall not be made part of the public record except as directed by a court of law.

104.10.1 Assistance from other agencies. Whenever requested to do so by the code official or an authorized representative, the police department shall assign such available police officers as in the police department's discretion may be necessary to assist the code official in enforcing the provisions of this code. In addition, the code official may request that the fire and rescue department detail to the bureau of fire prevention such members of the fire and rescue department as may from time to time be necessary. (Ord. 18170 §29; April 28, 2003: prior Ord. 17998 §5; May 13, 2002).

19.03.060 Section 104.11 Amended; Authority at Fires and Other Emergencies.

Section 104.11 of the International Fire Code is amended to read as follows:

104.11 Authority at fires and other emergencies. The code official and the fire and rescue department shall have the power and authority at the scene of a fire or other emergency involving the protection of life or property to direct such operation as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The fire and rescue department shall maintain control at the fire scene until the fire has been extinguished and the bureau of fire prevention has arrived at the scene. In the exercise of such power, the code official or fire and rescue department may prohibit any person, vehicle, vessel or thing from approaching the scene and may remove or cause to be removed or kept away from the scene any vehicle, vessel, or thing which may impede or interfere with the operations of the fire and rescue department or bureau of fire prevention in the extinguishment or investigation of such fire or emergency and, in the judgment of the code official or fire and rescue department, any person not actually and usefully employed in the extinguishment or investigation of such fire or emergency or in the preservation of property in the vicinity thereof. (Ord. 18170 §30; April 28, 2003: prior Ord. 17998 §6; May 13, 2002).

19.03.070 Section 104.11.1 Amended; Authority at Fires and Other Emergencies; Authority to Barricade.

Section 104.11.1 of the International Fire Code is amended to read as follows:

104.11.1 Authority to barricade. The code official or the fire and rescue department or their authorized representative, who may be in charge at the scene of an emergency shall have the authority to place ropes, guards, barricades, or other obstructions across any street, alley, place, or private property in the vicinity of such operation so as to prevent accident or interference with the lawful efforts of the bureau of fire prevention

or fire and rescue department to manage and control the situation. (Ord. 18170 §31; April 28, 2003: prior Ord. 17998 §7; May 13, 2002).

19.03.080 Section 104.11.2 Amended; Authority at Fires and Other Emergencies; Interference.

Section 104.11.2 of the International Fire Code is amended to read as follows:

104.11.2 Interference. Any person who obstructs the operations of the fire and rescue department or bureau of fire prevention in connection with investigating or extinguishing any fire, or other emergency, or disobeys any lawful command of the code official or the fire and rescue department as may be in charge at such a scene, or any part thereof, or any police officer assisting the fire and rescue department or bureau, shall be guilty of a misdemeanor. (Ord. 18170 §32; April 28, 2003: prior Ord. 17998 §8; May 13, 2002).

19.03.090 Section 105.4.7 Added; New Construction and Alterations.

Section 105.4.7 is added to the International Fire Code to read as follows:

105.4.7 New construction and alterations. When plans and specifications required to be submitted by Section 106.1 of the International Building Code are for construction or work for which bureau of fire prevention approval is required, a separate and additional bureau of fire prevention plan review and inspection fee shall be paid to the bureau of fire prevention. One-third of the fee shall be paid at the time of submitting said plans and specifications for review and shall not be refunded after any plan review has been completed by the bureau of fire prevention, even if the application is withdrawn. The remainder of the fee shall be paid upon issuance of the building permit. Said plan review and inspection fee shall be one dollar and forty cents ($1.40) per $1,000 of total value of the proposed improvement; provided that the minimum fee for such plan review shall be forty dollars ($40.00). Construction or work for which bureau of fire prevention approval is required shall be subject to inspection by the code official and such construction or work shall remain accessible and exposed for inspection purposes until approved by the code official. (Ord. 20081 §1; August 18, 2014: prior Ord. 19558 §2; June 20, 2011: Ord. 19032 §2; January 7, 2008: Ord. 17998 §9; May 13, 2002).

19.03.100 Section 105.6 Amended; Permits and Permit Fees.

Section 105.6 of the International Fire Code is amended to read as follows:

105.6 Permits and permit fees.

105.6.1 Permit required. A permit shall be obtained from the bureau of fire prevention prior to engaging in the following activities, operations, practices, or functions and on items (2), (4), (5), (7), (9), (10), (12), (13), (16), (17), (18), (19), and (21) the premises shall be inspected annually and a permit must be obtained each year to continue the activities, operations, practices, or functions:

(1) Carnivals, fairs, festivals.
(2) Explosives and blasting agents, see Chapter 33.
(3) Fireworks, see Chapter 33 and L.M.C. Chapter 9.44.
(4) Flammable combustible liquids and tanks, see Chapters 22 and 34.
(5) Hazardous materials in excess of exempt amounts listed in Table 105.6.20.
(6) Storage and use liquefied petroleum gas, see Chapter 38.
(7) Places of assembly.
(8) Pyrotechnic special effect material, see Chapter 33.
(9) Spraying or dipping operations utilizing flammable or combustible finishes, see Chapter 15.
(10) Storage of scrap tires and tire byproducts that exceed 2,500 cubic feet, see Chapter 25.
(11) Temporary membrane structure, tent or canopy, see Chapter 24.
(11a) Temporary membrane structure, tents or canopies with assemblies with a capacity of 50 or more persons.
(12) Hotels and motels.
(13) Fraternities and sororities.
(14) Installation of fire alarm systems.
(15) Child care facilities.
(16) Schools as defined in Section 27.02.200.
(17) Hospitals as defined in Section 27.02.090.

(18) Nursing Care Facilities as defined in Section 27.02.150
(19) Health Care Facilities (residential and non-residential) as defined in Section 27.02.090.
(20) Liquor Establishments.
(21) Mobile Home Court as defined in Section 21.56.010.

105.6.2 Permit fees. The following shall be the permit fees charged for the permits required in this section:

(1) Carnivals, fairs, festivals $125.00
(2) Explosives and blasting agents $150.00
(3) Fireworks display $175.00
Fireworks stand ..... $150.00/$50.00 Late Fee after 6/10
(4) Flammable combustible liquid tank installation ..... $85.00 per tank
Tank closures ..... $85.00 per tank
Replace product line ..... $50.00 per line
(5) Hazardous materials Less than exempt amount $100.00
More than exempt amount $175.00
(6) Storage and use of liquefied petroleum gases $80.00
(7) Places of assembly
50 to 299 (annually) $100.00
300 to 999 (annually) $125.00
1000 or more (annually) $150.00
(8) Pyrotechnics and special effects material $110.00
(9) Spraying or dipping ..... $ 85.00
(10) Storage of scrap tires and tire byproducts ..... $ 75.00
(11) Temporary membrane structures, tents, canopies $110.00
(11a) Temporary membrane structures, tents, canopies used as assembly
1 to 30 days erected $110.00
31 to 60 days erected $160.00
61 to 90 days erected $210.00

Applications must be submitted at least five days before a temporary membrane is erected or a $50.00 late fee shall be charged.

(12) Hotels and motels
0 to 40 rooms $85.00
41 to 120 rooms $110.00
121 to 200 rooms $150.00
201 or more rooms $175.00

(13) Fraternities and Sororities
0 to 40 rooms $85.00
Over 40 rooms $110.00

(14) Fire alarm systems
1 to 30 devices $85.00
31 to 60 devices $115.00
61 to 90 devices $145.00
91 or more devices $175.00

(15) Child care facilities
1 to 8 children $60.00
9 to 12 children $70.00
13 or more children $80.00

(16) Schools $100.00

(17) Hospitals
- 1 to 50 beds $125.00
- 51 to 100 beds $150.00
- Over 100 beds $175.00
- Reinspection (up to one hour). $75.00

(18) Nursing Care Facilities
- 1 to 50 beds $125.00
- 51 to 100 beds $150.00
- Over 100 beds $175.00
- Reinspection (up to one hour). $75.00

(19) Health Care Facilities
- 0 beds $100.00
- 1 to 50 beds $75.00
- 51 to 100 beds $150.00
- Over 100 beds $175.00
- Reinspection (up to one hour)... ..... $75.00

(20) Liquor Establishments Non-consumption establishment $100.00
- Consumption establishment. $125.00
- Reinspection $100.00

(21) Mobile Home Court
- 1 to 25 mobile homes $100.00
- 26 to 50 mobile homes $125.00
- Over 50 mobile homes $150.00
- Reinspection (up to one hour)... ..... $75.00

Where work for which a permit is required by this code is started or proceeded with prior to obtaining said permit, the fees herein specified shall be doubled; but the payment of such double fees shall not relieve any person or persons from fully complying with the requirements of this code in the execution of the work or any other penalties prescribed herein.

(22) Reinspection fee/late fee
(wrong address, equipment that does not pass inspection, incomplete work, equipment inaccessibility, etc.) ..... 1/2 Permit Fee Minimum $40.00

(23) Late fee assessed if payment is not received within 60 days of due date $75.00

(24) Fee for issuing a duplicate operational or annual permit $25.00

(25) Reinspections not listed and other inspections shall be at actual cost, calculated on an hourly rate.

105.6.3 Expiration. Every permit issued by the bureau of fire prevention shall under these provisions expire by limitation and become null and void if the work authorized by such permit is not commenced within 120 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work has commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee thereof shall be one-half the amount required for a new permit for such work; provided that such suspension or abandonment has not exceeded one year. There shall be no credits or refunds given on permits which have expired. Permit holders returning the unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the original fee if the original fee was $75.00 or more. For permits where the original fee was less than $75.00, a $25.00 processing fee will be levied and the remaining fee amount will be refunded to the permit holder.

Sections 105.6.4 through **105.6.46** are deleted.
(Ord. 20259 §2; October 19, 2015: prior Ord. 20081 §1; August 18, 2014: Ord. 19558 §3; June 20, 2011: Ord. 19032 §3; January 7, 2008: Ord. 18515 §1; March 21, 2005: Ord. 17998 §10; May 13, 2002).

19.03.110 Section 106.5 Added; Inspection Requests.

Section 106.5 of the International Fire Code is added to read as follows:

106.5 Inspection Requests. If the person doing the work requests that an inspection be conducted on a holiday or weekend, said person shall pay a fee equal to the actual costs to the City for the performance of the inspection by the inspector.

It shall be the duty of the person doing the work authorized by a permit to notify the code official that such work is ready for inspection. The code official is authorized to require that every request for inspection be filed not less than one working day before such inspection is desired. Such requests may be in writing or by telephone at the option of the code official.

It shall be the duty of the person requesting any required inspections to provide access to and means for proper inspection of such work.(Ord. 19032 §4; January 7, 2008: prior Ord. 17998 §11; May 13, 2002).

19.03.120 Section 108 Amended; Board of Appeals.

Section 108 of the International Fire Code is amended to read as follows:

Section 108. Board of Appeals. (a) Board of Appeals Created. In order to hear and decide appeals of orders, decisions and determinations made by the code official relative to the application and interpretation of this code, including but not limited to the suitability of alternate materials and type of construction, there shall be and hereby is created a board of appeals, consisting of five members who are qualified by experience and training to pass on pertinent matters. The code official shall be an ex officio member and shall act as secretary of the board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the mayor and shall serve staggered terms of three years. The board shall adopt reasonable rules and regulations for conducting its investigation and shall render all decisions and findings in writing to the code official with a duplicate copy to the appellant and may recommend to the city council such new legislation as is consistent therewith.

(b) Appeals to Board. Any person who is aggrieved by any order, decision or determination of the code official relating to the application or interpretation of any provisions of this code or to the suitability of alternate materials or methods of construction, may appeal such decision by filing an appeal on forms furnished by the code official within thirty days from the date of such decision. The filing of a completed appeals form, along with the payment of the prescribed fee, shall be sufficient for the purpose of commencing an appeal proceeding hereunder.

(c) Filing Fees. The fee for each appeal filed with the code official shall be as follows:

(1) $250.00 filing fee for review of a decision of the code official involving an interpretation of any provisions of this code;

(2) $250.00 filing fee for review of a decision of the code official relating to the suitability of alternate materials or methods of construction.

(d) Hearing Date. The code official shall refer all properly and timely filed appeals to the board of appeals for hearing. The secretary of said board 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. Such notice shall be served upon the applicant by personal service or registered mail.

(e) 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 code 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 or her.

(f) Decision of Board. The board of appeals shall, within fifteen days after the hearing, render a written decision which shall state its findings and conclusions. Decisions of the board may be appealed as provided by law.

(g) Enforcement. Enforcement of any decision, notice, or order of the code 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. (Ord. 19962 §1; December 16, 2013: prior Ord. 19558 §4; June 20, 2011: Ord. 17998 §12; May 13, 2002).

19.03.125 Section 202 Amended; General Definitions.

Section 202 of the International Fire Code is amended to add the following definition:

SKY LANTERNS. Devices that require a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air. Sky lanterns shall not include hot-air balloons used for transporting persons. (Ord. 20259 §3; October 19, 2015).

19.03.130 Section 304.3.5 Added; Manufactured Home Skirting.

Section 304.3.5 is added to the International Fire Code to read as follows:

304.3.5 Manufactured Home Skirting. Skirts shall be installed on all manufactured homes. Skirting shall be of a rigid material which does not create a fire hazard. Rigid foam insulation, chip board, Masonite, or any other wood products are not permitted skirting material. (Ord. 19558 §5; June 20, 2011: prior Ord. 17998 §13; May 13, 2002).

19.03.131 Section 307.6 Added; Extinguishment Authority.

Section 307.6 is added to the International Fire Code to read as follows:

307.6 Extinguishment Authority. When open burning, recreational fires, or outdoor fireplaces create or add to a hazardous situation, the fire code official or the fire department is authorized to order extinguishment of the fire. (Ord. 20259 §4; October 19, 2015).

19.03.132 Section 308.1.2.1 Added; Sky Lanterns.

Section 308.1.2.1 is added to the International Fire Code to read as follows:

308.1.2.1 Sky Lanterns. The sale, lighting of, and release of sky lanterns shall be prohibited. (Ord. 20259 §5; October 19, 2015).

19.03.133 Section 903.2.7 Exception 4 Deleted; Group M Sprinkler Requirements.

Exception 4 to Section 903.2.7 of the International Fire Code is hereby deleted. (Ord. 19558 §6; June 20, 2011).

19.03.135 Section 903.2.8 Exception Added; Group R Sprinkler Requirements.

(Repealed by Ord. 20259 §6; October 29, 2015: prior Ord. 19558 §7; June 20, 2011: Ord. 19032 §5; January 7, 2008).

19.03.140 Section 903.4.1 Amended; Monitoring.

Section 903.4.1 of the International Fire Code is amended to read as follows:

903.4.1 Monitoring. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station, remote supervising station or propriety supervising station as defined in NFPA 72 or, when approved by the code official, shall sound an audible signal at a constantly attended location.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or public utility are not required to be monitored.

2. Backflow prevention device test valves, located in limited area sprinkler system supply piping, shall be located in the open position. In occupancies required to be equipped with a fire alarm system, the backflow preventer valves shall be electrically supervised by a tamper switch installed in accordance with NFPA 72 and separately annunciated.

3. Apartment buildings where the number of sprinklers are under 200 need not be central station, remote station or proprietary monitored. (Ord. 19558 §8; June 20, 2011: prior Ord. 17998 §14; May 13, 2002).

19.03.144 Section 907.2.9 Amended; Group R-2.

(Repealed by Ord. 20259 §7; October 19, 2015: prior Ord. 19558 §10; June 20, 2011).

19.03.145 Section 1004.1.1 Exception Deleted; Areas Without Fixed Seating.

The exception to Section 1004.1.1 of the International Fire Code is hereby deleted. (Ord. 19032 §7; January 7, 2008).

19.03.147 Section 1014.2.1 Exception Deleted; Exit Access; Multiple Tenants.

The exception to Section 1014.2.1 of the International Fire Code is hereby deleted. (Ord. 19032 §8; January 7, 2008).

19.03.150 Section 1504.9 Amended; Limited Spraying Spaces.

(Repealed by Ord. 20259 §8; October 19, 2015; prior Ord. 19032 §9; January 7, 2008: Ord. 17998 §15; May 13, 2002).

19.03.160 Section 3301.1 Amended; Fireworks.

Section 3301.1 of the International Fire Code is amended to read as follows:

3301.1 Fireworks. The provisions of this chapter and Chapter 9.44 of the Lincoln Municipal Code shall govern the possession, manufacture, storage, handling, sale and use of explosives, explosive material, fireworks, and small arms ammunition.

Exceptions:

1. The Armed Forces of the United States, Coast Guard or National Guard.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The possession, storage and use of small arms ammunition when packaged in accordance with DOTn packaging requirements.
4. The possession, storage and use of not more than one pound (0.454 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption.
5. The use of explosive materials by federal, state and local regulatory, law enforcement, and fire agencies acting in their official capacities.
6. Special industrial explosive devices which in the aggregate contain less than 50 pounds (23 kg) of explosive materials.
7. The possession, storage, and use of blank industrial-power load cartridges when packaged in accordance with DOTn packaging regulations.
8. Transportation in accordance with DOTn 49 CFR Parts 100-178.
9. Items prepared by federal regulations.

(Ord. 17998 §16; May 13, 2002).

19.03.170 Section 3308.3 Amended; Approved Displays.

(Repealed by Ord 20259 §9; October 19, 2015: prior Ord. 17998 §17; May 13, 2002).

19.03.220 Copies Filed with City Clerk.

Not less than one copy of said "International Fire Code" referred to in Section 19.03.010, together with such amendments thereto as may be made from time to time, shall be filed for use and examination by the public in the office of the City Clerk. Three printed copies of each said publication shall be kept in the office of the Department of Building and Safety for use and examination by the public. (Ord. 17998 §22; May 13, 2002).

19.03.225 Fire Code Task Force Created.

There is hereby created the Fire Code Task Force which shall advise the Mayor of the suitability of alternate equipment, materials and methods of installation and reasonable interpretations of this code; review and recommend changes to this code; and provide such other advisory duties related to this code as may be deemed necessary by the Mayor. Appointments shall be made by the Mayor and shall run for three years each and all terms shall run concurrent with each other. Appointments for vacancies shall run only for the unexpired term. The Mayor may reappoint members as may be deemed appropriate and the Mayor may remove a member at any time. Each member shall serve without pay. Selection of officers, times and places for meetings, and other rules and procedures shall be as directed by the Mayor and set forth in an executive order. (Ord. 19963 §1; December 16, 2013).

19.03.230 Additional Definitions.

(a) Whenever the word "jurisdiction" is used in the International Fire Code, it shall be held to mean the jurisdiction of the City of Lincoln, Nebraska.

(b) Wherever the term "corporation counsel" is used in the International Fire Code, it shall be held to mean the City Attorney for the City of Lincoln or one of his assistants or deputies. (Ord. 17998 §23; May 13, 2002).

19.03.240 Penalty.

Any person firm, or corporation who shall violate any of the provisions of this code hereby adopted, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00 or imprisonment in the county jail for a period not to exceed six months or both, except that each person so convicted shall be fined in a sum of not less than $200.00 for the first offense, not less than $250.00 for the second offense, and not less than $300.00 for the third offense and each offense thereafter. Each day that a violation continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 17998 §24; May 13, 2002).

19.03.250 Severability.

The unconstitutionality of any part or parts of this chapter shall not affect the other parts. If for any reasons any section or part or parts of any section or sections of this chapter shall be declared unconstitutional or beyond the power of the city to enact, such facts shall not affect or impair in any way other provisions of this chapter, but such other provisions shall be in full force and effect. (Ord. 17998 §25; May 13, 2002).

Title 20

BUILDING CODE

Chapters:

20.04 Dangerous Building Code

20.06 Lincoln Building Code

20.10 Lincoln Residential Building Code

Prior Ordinance History – 20257; 20256; 17619; 17473; 17455; 14438; 14213; 13658; 13550; 13236; 12065; 11944; 11919; 11168; 11402; 10737; 10125; 9907; 9845; 9780; 9694; 9669; 9611; 8927; 8910; 8808; 8785; 8728; 8717; 8680; 8391; 8739; 8358; 8035; 8005; 8001; 6970; 7930; 7925; 7924; 7838; 7651; 7618; 7605; 7569; 7413; 7412; 7391; 8747; 7339; 7317; 7108; 7100; 6883; 6783; 6709; 6662; 6661; 6634; 6697; 6571; 6495; 6319; 5641; 5317; 5096; 4921; 4855; 4831; 4750; 4720; 4689; 4607; 4408; 4359; 4339; 4217; 4079; 4036; 3914; 3812; 3803; 3757; 3637; 3582; 3560; 3511; 3489.

CHAPTER 20.06

LINCOLN BUILDING CODE

Sections:

20.06.010	Adoption of International Building Code.
20.06.020	Section 101.1 Amended; Citation of Code.
20.06.030	Section 101.3 Amended; Intent.
20.06.040	Section 101.4 Amended; Referenced Codes.
20.06.050	Section 102.1 Amended; Applicability; General.
20.06.060	Section 103.1 Amended; Director of Building and Safety; Duty.
20.06.070	Section 105.1 Amended; Permits Required.
20.06.080	Section 105.2 Amended; Work Exempt from Permit.
20.06.090	Section 105.3.2 Amended; Time Limitation of Application.
20.06.100	Section 105.4.1 Added; Orders Not Stayed.
20.06.110	Section 105.5 Amended; Expiration and Reinstatement.
20.06.120	Section 107.1 Amended; Submittal Documents; General.
20.06.130	Section 109.3 Amended; Permit Fees.
20.06.140	Section 109.6 Amended; Fee Refunds.
20.06.150	Section 110.1 Amended; Inspections and Surveys.
20.06.160	Section 110.3.3 Deleted: Lowest Floor Elevation.
20.06.170	Section 110.3.11 Added; Reinspections.
20.06.180	Section 110.7 Added; Address Identification.
20.06.190	Section 111 Amended; Certificate of Occupancy.
20.06.200	Section 112 Deleted; Service Utilities.
20.06.210	Section 113 Amended; Board of Appeals.
20.06.220	Section 114 Amended; Violations and Penalties.
20.06.230	Section 115 Amended; Stop Work Order.
20.06.240	Section 305.2 Amended; Day Care.
20.06.250	Section 310.5 Amended; Residential Group R-3.
20.06.260	Section 310.5.1 Amended; Care Facilities Within a Dwelling.
20.06.270	Section 406.3.4 Amended; Private Garage Separation.
20.06.280	Section 419.1.1 Limitation 5 Added; Live/Work Units; Limitations.
20.06.290	Section 423.3 Added; Construction of Storm Shelters.
20.06.300	Section 501.2 Amended; Address Identification.
20.06.310	Section 503.1.4 Added; Location on Property.
20.06.320	Section 503.1.5 Added; Primary Railroad Lines.
20.06.330	Sections 718.2 Amended; Fireblocking.
20.06.340	Section 718.2.1 Amended; Fireblocking Materials.
20.06.350	Section 718.4.2 Exception 3 Amended; Draftstopping in Attics; Groups R-1 and R-2.
20.06.360	Section 903.2.7 Group M Sprinkler Requirements.
20.06.380	Section 903.2.8.2 Deleted; Group R, Care Facilities.
20.06.390	Section 1003.5 Amended; Exception 4 Added; Floor Elevation.
20.06.400	Section 1004.1.2 Amended; Occupant Load in Areas Without Fixed Seating.
20.06.410	Section 1008.1.9.7 Amended; Delayed Egress Locks.
20.06.420	Section 1009.4 Exception 5 Added; Stairway Width.
20.06.430	Section 1009.7.2 Exception 5 Amended; Stair Riser Height and Tread Depth.
20.06.440	Section 1009.7.2 Exception 8 Added; Stair Riser Height and Tread Depth.
20.06.450	Section 1013.3 Amended; Guards; Height.
20.06.460	Section 1014.2.1 Amended; Exit Access, Multiple Tenants.

20.06.470	**Chapter 11 Deleted; Accessibility.**
20.06.480	**Energy Efficiency.**
20.06.490	**Sections 1403.6 and 1403.7 Deleted; Flood Resistance.**
20.06.500	**Section 1404.2 Amended; Water-Resistive Barrier.**
20.06.510	**Section 1405.3 Amended; Vapor Retarders.**
20.06.520	**Section 1405.5 Amended; Wood Veneers.**
20.06.530	**Section 1406.3 Amended; Balcony and Similar Projections; Fire Resistance.**
20.06.540	**Section 1509.9 Added; Outdoor Deck Framing for Roof Top Seating and Assembly Areas.**
20.06.550	**Section 1510.3 Amended; Recovering vs. Replacement.**
20.06.560	**Section 1704.1 Amended; Special Inspections; General.**
20.06.570	**Section 1804.4 Deleted: Flood Hazard Areas, Grading and Fill.**
20.06.580	**Section 1809.5 Amended; Frost Protection.**
20.06.590	**Section 2304.11.5.1 Added; Deck Supporting Structure.**
20.06.600	**Table 2308.8(1) Deleted; Floor Joist Spans for Residential Sleeping Areas.**
20.06.610	**Section 2410 Added; Window Cleaning Anchorage Systems.**
20.06.620	**Chapters 27, 28, and 29 Deleted; Electrical, Mechanical, Plumbing Systems.**
20.06.630	**Section 3202.3.3. Deleted; Encroachments 15 Feet or More Above Grade.**
20.06.640	**Section 3202.5 Added; Ornamental Facing.**
20.06.650	**Section 3303 Amended; Demolition of Buildings.**
20.06.660	**Section 3306.2 Amended; Walkways.**
20.06.670	**Section 3306.4 Amended; Construction Fences.**
20.06.680	**Section 3306.7 Deleted; Covered Walkways.**
20.06.690	**Section 3308.1 Amended; Temporary Use of Streets and Alleys.**
20.06.700	**Appendix C Adopted; Group U - Agricultural Buildings.**
20.06.710	**Section C105 Added; Snow Load.**

20.06.010 Adoption of International Building Code.

Except as hereinafter provided by specific amendment, the following publications are hereby adopted and incorporated into Title 20 of the Lincoln Municipal Code:

(a) All but Chapter 13 of the International Building Code, 2012 Edition, First Printing (including Appendix C, as published by the International Code Council, Inc.) hereinafter referred to as the International Building Code.

(b) Chapter 13 of the International Building Code, 2009 Edition, Second Printing.

(c) Elevated Residential Structures F.E.M.A. Publication No. 54, dated March 1984, published by U.S. Government Printing Office: 2002-717-395/96287.

(d) Flood-proofing Non-residential Structures, F.E.M.A. Publication No. 102, dated May, 1986.

The documents described in (b) and (c) above are adopted for reference to design standards and techniques only, as they relate to "floodproofing" of approved buildings located in the flood hazard areas of the City of Lincoln, Nebraska, as set forth in Chapters 27.52 and 27.53 of the Lincoln Municipal Code.

One printed copy of each publication described above has been filed in the office of the City Clerk for use and examination by the public. (Ord. 20257 §1; October 19, 2015).

20.06.020 Section 101.1 Amended; Citation of Code.

Section 101.1 of the International Building Code is amended to read as follows:

101.1 Citation of code. These regulations shall be known and cited as the "Lincoln Building Code" and will be referred to herein as "this code." (Ord. 20257 §2; October 19, 2015).

20.06.030 Section 101.3 Amended; Intent.

Section 101.3 of the International Building Code is amended to read as follows:

101.3 Intent. The intent of this code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the city and within three miles of the corporate limits of the city and outside of any other organized city or village, and regulating certain equipment specified herein.

The intent of this code is not to create or otherwise establish or designate any particular case or group of persons who will or should be especially protected or benefitted by the terms of this code. (Ord. 20257 §3; October 19, 2015).

20.06.040 Section 101.4 Amended; Referenced Codes.

Section 101.4 of the International Building Code is amended to read as follows:

101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.6 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Electrical. The provisions of the Lincoln Electric Code, Chapter 23.10 of the Lincoln Municipal Code, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.

101.4.2 Gas. The provisions of the Lincoln Gas Piping Systems Code, Chapter 24.05 of the Lincoln Municipal Code, shall apply to the installation of gas piping from the point of delivery, gas appliances, and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

101.4.3 Mechanical. The provisions of the Lincoln Mechanical Code, Chapter 25.04 of the Lincoln Municipal Code, shall apply to the installation, alterations, repairs, and replacement of mechanical systems, including equipment, appliances, fixtures, fittings, and/or appurtenances, including ventilating, heating, cooling, air-conditioning, and refrigeration systems, incinerators, and other energy-related systems.

101.4.4 Plumbing. The provisions of the Lincoln Plumbing Code, Chapter 24.10 of the Lincoln Municipal Code, shall apply to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.5 Fire Prevention. The provisions of the Lincoln Fire Code, Chapter 19.03 of the Lincoln Municipal Code, shall apply to matters affecting or relating to structures, processes, and premises from the hazard of fire and explosion arising from the storage, handling, or use of structures, materials, or devices; from conditions hazardous to life, property, or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration, or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.6 Property Maintenance. The provisions of the Property Maintenance Code of the City of Lincoln, Chapter 21.05 of the Lincoln Municipal Code, shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators, and occupants; and occupancy of existing premises and structures. (Ord. 20257 §4; October 19, 2015).

20.06.050 Section 102.1 Amended; Applicability; General.

Section 102.1 of the International Building Code is amended to read as follows:

102.1 General. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where there is a conflict between the International Building Code, as adopted or amended, any other section of the Lincoln Municipal Code, or recommendation or requirement from a manufacturer, the most restrictive shall govern. (Ord. 20257 §5; October 19, 2015).

20.06.060 Section 103.1 Amended; Director of Building and Safety; Duty.

Section 103.1 of the International Building Code is amended to read as follows:

103.1 Director of Building and Safety; Duty. The Department of Building and Safety is hereinafter designated as the building department under the jurisdiction of the Director of Building and Safety, who is hereinafter designated as the building official. (Ord. 20257 §6; October 19, 2015).

20.06.070 Section 105.1 Amended; Permits Required.

Section 105.1 of the International Building Code is amended to read as follows:

105.1 Permits required. No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy, or demolish any building, structure, swimming pool, or parking lot in the city, or within three miles of the corporate limits of the city and outside of any other organized city or village, or cause the same to be done, without first obtaining a building permit from the building official. A separate building permit is required for each building or structure. A building permit for a building or structure may also permit work on a swimming pool and parking lot if the plans for the swimming pool or parking lot are approved by the building official in conjunction with issuance of the building permit. (Ord. 20257 §7; October 19, 2015).

20.06.080 Section 105.2 Amended; Work Exempt from Permit.

Section 105.2 of the International Building Code is amended to read as follows:

105.2 Work exempt from permit. A building permit will not be required for the following:

(1) Fences not over 6 feet 4 inches high;

(2) Cases, counters, or partitions not over 5 feet 9 inches high;

(3) Retaining walls which are not over 4 feet in height measured from the bottom of the footing to the top of the wall unless supporting a surcharge or impounding flammable liquids;

(4) Painting, papering, and similar finish work;

(5) Window awnings supported by an exterior wall of Group R, Division 3, and Group M Occupancies when projecting not more than thirty-six inches into a front or rear yard may project into a side yard twenty-four inches or two-fifths of the required side yard (in accordance with Title 27 of the Lincoln Municipal Code);

(6) Shingling and residing.

Unless otherwise exempted by this code, 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. (Ord. 20257 §8; October 19, 2015).

20.06.090 Section 105.3.2 Amended; Time Limitation of Application.

Section 105.3.2 of the International Building Code is amended to read as follows:

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated. The fee for any such extension shall be as set forth in Table 1B in Section 20.06.130 of the Lincoln Municipal Code.(Ord. 20257 §9; October 19, 2015).

20.06.100 Section 105.4.1 Added; Orders Not Stayed.

Section 105.4.1 is added to the International Building Code to read as follows:

105.4.1 Orders not stayed. Orders, deadlines, provisions, and/or penalties established by the building official or any other officer or other designated authority with the City of Lincoln charged with the administration and enforcement of any code or ordinance under the Lincoln Municipal Code shall not be stayed or nullified because of the issuance or granting of a building permit. (Ord. 20257 §10; October 19, 2015).

20.06.110 Section 105.5 Amended; Expiration and Reinstatement.

Section 105.5 of the International Building Code is amended to read as follows:

105.5 Expiration and Reinstatement. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

In the event a permit expires without the work therein completed, the permit may be reinstated if requested by the original applicant in writing within 14 days of expiration. The request for reinstatement must state the reason or reasons why the permit should be reinstated. The building official is in no way required to grant a reinstatement, even if the request is timely made. The fee for a reinstatement, if granted, shall be as set forth in Table 1B of Section 20.06.130 of the Lincoln Municipal Code. (Ord. 20257 §11; October 19, 2015).

20.06.120 Section 107.1 Amended; Submittal Documents; General.

Section 107.1 of the International Building Code is amended to read as follows:

107.1 General. Plans, specifications, legal surveys, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs, and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit. When such plans are not prepared by an architect or engineer, the building official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer.

The building official may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

EXCEPTION: The building official may waive the submission of plans, calculations, construction inspections requirements, and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.
(Ord. 20257 §12; October 19, 2015).

20.06.130 Section 109.3 Amended; Permit Fees.

Section 109.3 of the International Building Code is amended to read as follows:

109.3 Permit fees. The fee for each permit shall be as set forth in Table 1A and Table 1B below:

TABLE 1A -- BUILDING PERMIT FEES

Total Valuation	Fee
$0 to and including $1,000	$55.00
$1,001 to and including $10,000	$55.00 for the first $1,000, plus $8.00 for each additional $1,000 value and fraction thereof, to and including $10,000
$10,001 to $25,000	$127.00 for the first $10,000, plus $5.00 for each $1,000 value and fraction thereof, to and including $25,000
Over $25,000	$202.00 for the first $25,000, plus $2.00 for each $1,000 value and fraction thereof, over $25,000
Reinspection fee (wrong address, work does not pass inspection, work not complete, etc.)	$55.00

TABLE 1B -- MISCELLANEOUS FEES

Permit	Fee
Cell Tower	$250.00 in addition to building permit fee
Co-location	$100.00 in addition to building permit fee if structural review by outside consultant is required
Occupancy	$30.00 per permit; $10.00 per copy
Demolition	Residential - $200.00 Commercial - $250.00 plus $.01 per sq. ft. Garages - $30.00
Fire Damage Investigation	$100.00 in addition to building or demolition permit fee
Building Damage Investigation	$100.00 in addition to building or demolition
Expedited Plan Review	100% of plan review fee, with a minimum of $300.00 and a maximum of $6,000.00
Extension of Active Building Permit Application	10% of plan review fee
Reinstatement of Expired Permit	100% of plan review fee

The determination of value or valuation under any of the provisions of this code shall be made by the building official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent equipment. The building official may determine valuation by applying the ICC valuation or other recognized method of estimating building construction project cost.

The value or valuation used by the building official in computing the building permit and plan review fees is only an estimate and is not intended to be used as conclusive evidence of the actual value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent equipment for purposes of determining whether said value exceeds a certain percentage of the fair market value of the building in question.

109.3.1 Plan review fees. When a plan or other data are required to be submitted by Section 107.1, a plan review fee shall be paid at the time of submitting plans and specifications for review. Plan review fees shall also cover zoning, special permit, use permit, or planned unit development reviews. Said plan review fee shall be an amount equal to 65% of the building permit fee as shown in Table 1A above, or $100.00 whichever is greater, for commercial buildings, accessory buildings, and apartments.

The plan review fees in this subsection are separate from and in addition to the permit fees specified in Section 109.3 and shall not be credited to the total building permit fee if such permit is issued. There shall be no refund for plan review after any plan review has been completed by the Department of Building and Safety, even if the application is withdrawn.

One additional plan review of corrections made on the original plans after the initial plan review shall be performed at no cost to the applicant; however, where plans require further corrections, are incomplete, or are changed necessitating additional plan review, an additional plan review fee shall be charged at the rate of 10% of the total permit fee or $50.00, whichever is greater, for each additional review. Shell and limited permit applications will be subject to additional plan review fees as specified in this section.

Limited permit reviews will be subject to an additional plan review fee at the rate of twenty percent of the total building permit fee or $100.00, whichever is greater.

If plans are revised or changed to the extent a complete review is required, an additional plan review fee shall be charged at the full plan review rate.

109.3.1.1 Fee for work commencing before permit issuance. When construction begins before the permit has been issued, the applicant shall pay an investigation fee. This fee for work commencing before permit issuance shall be equal to the amount of the permit fee and shall be applied after one or more inspections have been made to verify that work requiring a permit has been performed without a plan review and inspection during construction.

No additional fee shall be added if the work is of an emergency nature where a delay in performing the work may cause a risk of life or health or will significantly increase the risk of property damage, provided a permit is applied for within 48 hours of the start of the work, in which case the permit application fee shall be assessed.

109.3.2 Fair Housing Act Plan Review & Inspection Fees. A fee of $30.00 shall be assessed for each dwelling unit in a multi-family building for review and inspection regarding the Fair Housing Act based on Federal and State Laws.

109.3.3 Flood plain development fees.

109.3.3.1 A fee shall be assessed for any development permit applied for under Lincoln Municipal Code Chapters 27.52 and 27.53 and shall be paid at the time of application therefor. The fee for each permit shall be as follows:

Flood Plain Development Permit Fees

Flood Plain Permit	15% of Building Fee ($250.00 Minimum)
Flood Plain – All other Development (roads, trails, pipelines& levees)	$250.00
Flood Plain Permit – Fill	$250.00
+ $50.00 per acre	($2,500.00 Maximum)
Flood Plain – Mobile Home Placement	$50.00
Floodplain – Accessory Buildings	$50.00
Flood Plain – Residential Non-substantial Improvement	$100.00

109.3.3.2 In those cases where a development permit is required for a structure, but a building permit is not required, the value of construction as determined by Section 109.3 shall be used to calculate the development permit fee.

109.3.3.3 Any work requiring a development permit commenced prior to the issuance of the permit shall result in the assessment of an investigation fee in accordance with Section 109.4, which investigation fee shall be in addition to the development permit fee.

109.3.3.4 The building official may refund not more than two-thirds (2/3) of the development permit fee when an application for which such fee has been paid is withdrawn or canceled prior to commencement of plan review.

109.3.3.5 Expiration. Permit application and permits shall expire in accordance with Section 105. (Ord. 20257 §13; October 19, 2015).

20.06.140 Section 109.6 Amended; Fee Refunds.

Section 109.6 of the International Building Code is amended to read as follows:

109.6 Fee refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the total building permit fee, with the remaining one-third to be used to pay the cost of processing the permit. The building official may authorize refunding of not more than two-thirds of the plan review fee or permit deposit paid when an application for a permit for which such fee has been paid is withdrawn or canceled before any plan reviewing is done.

No refund shall be issued on a permit deposit or plan review fee, flood plain development fee, demolition fee, or any other fee collected by the department, where refund amount is less than $50.00. Where a fee has been collected in error, the building official may authorize a 100% refund. (Ord. 20257 §14; October 19, 2015). 20.06.150 - 20.06.180

20.06.150 Section 110.1 Amended; Inspections and Surveys.

Section 110.1 of the International Building Code is amended to read as follows:

110.1 Inspections and surveys. All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction work shall remain accessible and exposed for inspection purposes until approved by the building official. In addition, certain types of construction shall have continuous inspection as specified in Section 1704.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the city. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the city shall not be valid.

A survey of the lot or lots upon which permitted work for additions, alterations, or repairs are being accomplished shall be provided by a duly licensed surveyor of the State of Nebraska before plans and specifications shall be accepted by the building official to verify compliance of the construction or work with building line setback requirements of the Lincoln Municipal Code. All boundary corners of a lot or lots with permanent survey monuments shall be marked in the field by a duly licensed surveyor of the State of Nebraska.

The monuments set shall be constructed of material capable of being detected by commonly used magnetic locators. These monuments shall consist of an iron pipe or steel rod with a minimal diameter of one-half inch and minimal length of twenty-four inches. A durable cap bearing the registration number of the professional land surveyor responsible for the establishment of the monument shall be affixed securely to the top of each monument.

Said permanent survey monument shall be maintained and readily identifiable during the entire period of the time that the construction work is being accomplished for which a permit is required.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. (Ord. 20257 §15; October 19, 2015).

20.06.160 Section 110.3.3 Deleted: Lowest Floor Elevation.

Section 110.3.3 of the International Building Code is hereby deleted. This section will be covered by Lincoln Municipal Code Chapters 27.52 and 27.53. (Ord. 20257 §16; October 19, 2015).

20.06.170 Section 110.3.11 Added;Reinspections.

Section 110.3.11 is added to the International Building Code to read as follows:

110.3.11 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid. (Ord. 20257 §17; October 19, 2015).

20.06.180 Section 110.7 Added; Address Identification.

Section 110.7 is added to the International Building Code to read as follows:

110.7 Address identification. All additions, alterations, or repairs for which a permit is required by this code shall be provided with a construction address identification sign. Said identification sign shall be a sign of metal, wood, plastic, or other approved rigid material with permanent identification numbers and letters thereon indicating the legally assigned street or other type address assigned by the building official. Said identification sign shall have numbers and letters of such size and shall be so placed upon the construction site that said sign is readily visible and identifiable from the public street. Said identification sign shall be properly maintained during the entire period of time that the construction or work is being accomplished or maintained. (Ord. 20257 §18; October 19, 2015).

20.06.190 Section 111 Amended; Certificate of Occupancy.

Section 111 of the International Building Code is amended to read as follows:

SECTION 111 --
CERTIFICATE OF OCCUPANCY

111.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing use or occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor, as provided in Chapter 27.77 of the Lincoln Municipal Code.

It shall be the responsibility of a permit holder or the permit holder's agent to call for all required inspections, including the final inspection, of all additions, alterations, or repairs performed under a building permit. Final inspection shall be called for by the permit holder or the permit holder's agent prior to occupancy of the building or structure or portion thereof. In the event any permit holder or permit holder's agent shall fail to call for required inspections as herein provided or in the event any permit holder or permit holder's agent shall have a backlog of one or more permit(s) with no final inspections completed, the building official is authorized to withhold further issuance of any permit or perform any further inspections under this code to said permit holder or the permit holder's agent until required inspections have been completed as provided by this code. Written notice shall be given to the permit holder by the building official.

111.2 Change in use. Changes in the character or use of a building shall not be made except as specified in Chapter 34 of this code.

111.3 Certificate issued. After the building official performs a final inspection, a certificate of occupancy shall be issued when it is found that the building or structure complies with requirements of issuance set forth in Chapter 27.77 of the Lincoln Municipal Code.

111.4 Temporary certificate. If the building official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, a temporary certificate of occupancy may be issued for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. A 30-day temporary certificate may be issued for interior items and a 90-day temporary certificate may be issued for exterior items upon written request, subject to the approval of the building official. An additional 30 days may be granted by the building official upon written request and a fee of $100.00. Each additional 30-day extension will constitute the necessity of an additional fee.

111.5 Posting. The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

111.6 Revocation. The building official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code. (Ord. 20257 §19; October 19, 2015).

20.06.200 Section 112 Deleted; Service Utilities.

Section 112 of the International Building Code is hereby deleted. (Ord. 20257 §20; October 19 2015).

20.06.210 Section 113 Amended; Board of Appeals.

Section 113 of the International Building Code is amended to read as follows:

SECTION 113 -- BOARD OF APPEALS

113.1 Creation. There is hereby created a Building Appeals Board consisting of seven members and shall hereinafter be referred to as the Building Code Board of Appeals.

Membership on the Building Code Board of Appeals shall consist of the following:

(1) The building official (non-voting member);

(2) A registered professional architect who has passed the State of Nebraska's architect examination and is a representative from business and industry;

(3) An actively engaged registered professional engineer who is a representative from business and industry;

(4) A general building contractor;

(5) A residential building contractor;

(6) A State of Nebraska registered engineer or architect.

The registered professional architect, engineer, and the contractors shall be appointed by the Mayor with concurrence of the City Council for staggered terms of three years each. Vacancies on the board shall be filled by appointment for the unexpired term only. The building official shall be a permanent secretary of the board and shall keep a record of all meetings.

113.2 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 shall make recommendations to the Mayor at the Mayor's request. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and recommendations in writing to the building official.

113.3 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.

113.4 Appeals to Board. Any person who is aggrieved by any decision 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 of the prescribed fee, shall be sufficient for the purpose of commencing an appeal proceeding hereunder:

(1) A $250.00 fee for review of a decision of the building official interpreting a provision or provisions of this code;

(2) A $250.00 fee for review of a decision of the building official concerning the suitability of alternate materials or types of installation.

113.5 Hearing Date. The building official shall refer all properly and timely filed appeals to the Building Code Board of Appeals for hearing. The secretary of said board 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. Such notice shall be served upon the applicant by personal service or registered mail.

113.6 Hearing Procedure. Hearings on appeal need not be conducted according to technical rules relating to evidence and witnesses. 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 or her.

113.7 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. Decisions of the board may be appealed as provided by law.

113.8 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. (Ord. 20257 §21; October 19, 2015).

20.06.220 Section 114 Amended; Violations and Penalties.

Section 114 of the International Building Code is amended to read as follows:

SECTION 114 –
VIOLATIONS AND PENALTIES

114.1 Unlawful acts. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy, demolish, use, occupy, or maintain any building or structure in the city or within three miles of the corporate limits of the city and outside of any other organized city or village, or cause the same to be done contrary to or in violation of any of the provisions of this code.

114.2 Penalty. Any person, firm, or corporation who shall violate any of the provisions of this code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00, or be imprisoned in the county jail for a period not to exceed six months, or by both such fine and imprisonment, except that each person so convicted shall be fined in a sum of not less than $200.00 for the first offense, not less than $250.00 for the second offense, and not less than $300.00 for the third offense and each offense thereafter. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

114.3 Prosecution of violation. If the notice of violation is not complied with and the abatement or correction of the violation is not completed within the time frame given in the notice of violation, the building official may withhold issuance of any further building permits and may withhold any further inspection pending compliance with the order of abatement or correction and the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

114.4 Work commencing without permit. Buildings or structures that have been partially constructed, but have no building permit to continue construction, shall be deemed to be in violation of this code. Each day that a partially constructed building or structure exists without a building permit constitutes a new violation. The building official shall have the authority to exercise any powers granted under this code to compel completion of a partially constructed building or structure, refer for prosecution as a violation, or seek demolition in accordance with this code or Chapter 20.04 of the Lincoln Municipal Code. (Ord. 20257 §22; October 19, 2015).

20.06.230 Section 115 Amended; Stop Work Order.

Section 115 of the International Building Code is amended to read as follows:

SECTION 115
STOP WORK ORDER

115.1 Notice to owner. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building

official is authorized to issue a stop work order. Upon notice from the building official that work on any building or structure is being performed contrary to the provisions of this code or in an unsafe and dangerous manner, such work will be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work shall be permitted to resume. If the owner or owner's agent fails to comply with the stop work order or fails to correct any violations or unsafe and dangerous work practices ordered to be abated or corrected within thirty days or the time frame given in the stop work order, the building official shall withhold issuance of any further building permits and withhold any further inspections pending compliance with the stop work order and abatement or correction of any violations or unsafe and dangerous work practices.

115.2 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

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115.3 Time to correct violations. The International Building Code violations or any other Lincoln Municipal Code violations stated in the stop work order shall be abated within thirty days, unless directed otherwise by the building official, or be subject to penalties as prescribed in this code.
(Ord. 20257 §23; October 19, 2015).

20.06.240 Section 305.2 Amended; Day Care.

Section 305.2 of the International Building Code is amended to read as follows:

305.2 Day care. The use of a building or structure, or portion thereof, for educational, supervision, or personal care services for more than twelve children older than 2 1/2 years of age, shall be classified as a Group E occupancy.

305.2.1 Within places of religious worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy.

305.2.2 Twelve or fewer children. A facility having twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

305.2.3 Twelve or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. (Ord. 20257 §24; October 19, 2015).

20.06.250 Section 310.5 Amended; Residential Group R-3.

Section 310.5 of the International Building Code is amended to read as follows:

310.5 Residential Group R-3. Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I, including:

Buildings that do not contain more than two dwelling units.

Boarding houses (nontransient) with 16 or fewer occupants.

Boarding houses (transient) with 10 or fewer occupants.

Care facilities that provide accommodations for five or fewer persons receiving custodial care and twelve or fewer persons receiving personal care.

Congregate living facilities (nontransient) with 16 or fewer occupants.

Congregate living facilities (transient) with 10 or fewer occupants. (Ord. 20257 §25; October 19, 2015).

20.06.260 Section 310.5.1 Amended; Care Facilities Within a Dwelling.

Section 310.5.1 of the International Building Code is amended to read as follows:

310.5.1 Care facilities within a dwelling. Care facilities for twelve or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code. (Ord. 20257 §26; October 19, 2015).

20.06.270 Section 406.3.4 Amended; Private Garage Separation.

Section 406.3.4 of the International Building Code is amended to read as follows:

406.3.4 Separation. Separations shall comply with the following:

1. The private garage shall be separated from the dwelling unit and its attic area by means of a minimum 5/8-inch Type X gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch Type X gypsum board or equivalent. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8 inches thick, or doors in compliance with Section 716.5.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

2. A separation is not required between a Group R-3 and U carport, provided the carport is entirely open on two or more sides and there are not enclosed areas above. (Ord. 20257 §27; October 19, 2015).

20.06.280 Section 419.1.1 Limitation 5 Added; Live/Work Units; Limitations.

Limitation 5 is added to Section 419.1.1 of the International Building Code to read as follows:

5. The Live/Work units shall also comply with the conditions of Household Living Use Groups as set forth in the Title 27 of the Lincoln Municipal Code. (Ord. 20257 §28; October 19, 2015).

20.06.290 Section 423.3 Added; Construction of Storm Shelters.

Section 423.3 is added to the International Building Code to read as follows:

423.3 Construction of Storm Shelters. Buildings, structures, and parts thereof intended for use as a storm shelter shall be designed and constructed in accordance with the recommendations of the Federal Emergency Management Agency and design standard FEMA 361. (Ord. 20257 §29; October 19, 2015).

20.06.300 Section 501.2 Amended; Address Identification.

Section 501.2 of the International Building Code is amended to read as follows:

501.2 Address identification. New and existing buildings shall be provided with approved address numbers, building numbers or approved building identification in accordance with Lincoln Municipal Code Chapter 14.24. Each character shall be a minimum four (4) inches high and a minimum of 0.5 inch wide, except address numbers, located on a building set back any distance from the property line shall be a minimum of eight (8) inches. They shall be installed on a contrasting background and be plainly visible from the street or road fronting the property. When required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure. Address numbers shall be maintained. (Ord. 20257 §30; October 19, 2015).

20.06.310 Section 503.1.4 Added; Location on Property.

Section 503.1.4 is added to the International Building Code to read as follows:

503.1.4 Location on property. Buildings shall adjoin or have access to a public way or yard on not less than one side. Required yards shall be permanently maintained. For the purpose of this section, the centerline of an adjoining public way shall be considered an adjacent property line. Active primary railroad lines where rail cars cannot be parked for extended periods of time may also be considered as a public way. (Ord. 20257 §31; October 19, 2015).

20.06.320 Section 503.1.5 Added; Primary Railroad Lines.

Section 503.1.5 is added to the International Building Code to read as follows:

503.1.5 Primary railroad lines. For the purpose of this section, active primary railroad lines where rail cars cannot be parked for extended periods of time may also be considered as a public way. (Ord. 20257 §32; October 19, 2015).

20.06.330 Section 718.2 Amended; Fireblocking.

Section 718.2 of the International Building Code is amended to read as follows:

718.2 Fireblocking required. Fireblocking shall be provided to cut off all concealed draft openings (both vertical and horizontal) and to form an effective fire barrier between stories, and between a top story and the roof space. Fireblocking shall be provided in wood-frame construction in the following locations:

1. In concealed spaces of stud walls and partitions, including furred spaces, at the ceiling and floor level and at 10-foot intervals both vertical and horizontal. Batts or blankets of mineral or glass fiber or other approved non-rigid materials shall be allowed as fireblocking in walls constructed using parallel rows of studs or staggered studs.
2. Fireblocking of cornices of a two-family dwelling is required at the line of dwelling unit separation. (Ord. 20257 §33; October 19, 2015).

20.06.340 Section 718.2.1 Amended; Fireblocking Materials.

Section 718.2.1 of the International Building Code is amended to read as follows:

718.2.1 Materials. Fireblocking shall consist of 2-inch nominal lumber, or two thicknesses of 1-inch nominal lumber with broken lap joints, or one thickness of 23 /32-inch wood structural panels with joints backed by 23/32-inch wood structural panels or one thickness of 3/4-inch particle board with joints backed by 3/4-inch particle board, 1/2-inch gypsum board, or 1/4-inch cement-based millboard. Loose-fill insulation material shall not be used as a fire block unless specifically tested in the form and manner intended for use to demonstrate its ability to remain in place and to retard the spread of fire and hot gases. The integrity of all fireblocks shall be maintained. (Ord. 20257 §34; October 19, 2015).

20.06.350 Section 718.4.2 Exception 3 Amended; Draftstopping in Attics; Groups R-1 and R-2.

Exception 3 to Section 718.4.2 of the International Building Code is amended to read as follows:

3. In occupancies in Groups R-1 and R-2 that do not exceed four stories in height, the attic space shall be subdivided by draftstops into areas not exceeding 3,000 square feet. (Ord. 20257 §35; October 19, 2015).

20.06.360 Section 903.2.7; Group M Sprinkler Requirements.

Section 903.2.7 of the International Building Code is hereby amended to read as follows:

903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet.
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet. (Ord. 20257 §36; October 19, 2015).

20.06.380 Section 903.2.8.2 Deleted; Group R, Care Facilities.

Section 903.2.8.2 of the International Building Code is hereby deleted. (Ord. 20257 §38; October 19, 2015).

20.06.390 Section 1003.5 Amended; Exception 4 Added; Floor Elevation.

Section 1003.5 of the International Building Code is amended by adding Exception 4 to read as follows:

4. Doors serving building equipment rooms which are not normally occupied.

(Ord. 20257 §39; October 19, 2015).

20.06.400 Section 1004.1.2 Amended; Occupant Load in Areas without Fixed Seating.

Section 1004.1.2 of the International Building Code is amended to read as follows:

1004.1.2 Areas without fixed seating. The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.2. For areas without fixed seating, the occupant load shall not be less than that number determined by dividing the floor area under consideration by the occupant

per unit of area factor assigned to the occupancy as set forth in Table 1004.1.2. Where an intended use is not listed in Table 1004.1.2, the building official shall establish a use based on a listed use that most nearly resembles the intended use. (Ord. 20257 §40; October 19, 2015).

20.06.410 Section 1008.1.9.7 Amended; Delayed Egress Locks.

Section 1008.1.9.7 of the International Building Code is amended to read as follows:

1008.1.9.7 Delayed egress locks. Approved, listed, delayed egress locks shall be permitted to be installed on doors serving any occupancy except Group A and H occupancies in buildings which are equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors unlock in accordance with Items 1 through 6 below. A building occupant shall not be required to pass through more than one door equipped with a delayed egress lock before reaching an exit.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.
2. The doors unlock upon loss of power controlling the lock or lock mechanism.
3. The door locks shall have the capability of being unlocked by a signal from the fire command center.
4. The initiation of an irreversible process which will release the latch in not more than 15 seconds when a force of not more than 15 pounds is applied for one second to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, relocking shall be by manual means only.

Exception: Where approved, a delay of not more than 30 seconds is permitted.

5. A sign shall be provided on the door located above and within 12 inches of the release device reading: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 SECONDS.
6. Emergency lighting shall be provided at the door. (Ord. 20257 §41; October 19, 2015).

20.06.420 Section 1009.4 Exception 5 Added; Stairway Width.

Section 1009.4 of the International Building Code is amended by adding an Exception 5 to read as follows:

5. Private stairways serving fewer than 10 occupants within an individual apartment unit (R2) may be 34 inches in width. (Ord. 20257 §42; October 19, 2015).

20.06.430 Section 1009.7.2 Exception 5 Amended; Stair Riser Height and Tread Depth.

Exception 5 to Section 1009.7.2 of the International Building Code is amended to read as follows:

5. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwellings units in Group R-2 occupancies; the maximum riser height shall be 7.75 inches; the minimum tread depth shall be 10 inches including nosing; the minimum winder tread depth at the walk line shall be 10 inches including nosing; and the minimum winder tread depth shall be 7 inches. (Ord. 20257 §43; October 19, 2015).

20.06.440 Section 1009.7.2 Exception 8 Added; Stair Riser Height and Tread Depth.

Section 1009.7.2 of the International Building Code is amended by adding an Exception 8 to read as follows:

8. Private steps and stairways serving ancillary areas such as mechanical rooms and stairways to unoccupied roofs may be constructed with an eight-inch maximum rise and nine-inch minimum tread depth. (Ord. 20257 §44; October 19, 2015).

20.06.450 Section 1013.3 Amended; Guards; Height.

Section 1013.3 of the International Building Code is amended to read as follows:

1013.3 Height. Required guards shall form a protective barrier not less than 42 inches high, measured vertically as follows:

1. From the adjacent walking surfaces;
2. On stairs, from the line connecting the leading edges of the tread nosings;
3. Exterior balcony railings.

Exceptions:

1. Guards shall form a protective barrier not less than 36 inches high, for occupancies in Group R-3, and within individual dwelling units in occupancies in Group R-2 (excluding exterior balcony railings). (Ord. 20257 §45; October 19, 2015).

20.06.460 Section 1014.2.1 Amended; Exit Access, Multiple Tenants.

Section 1014.2.1 of the International Building Code is amended to read as follows:

1014.2.1 Multiple tenants. Where more than one tenant occupies any one floor of a building or structure, each tenant space, dwelling unit, and sleeping unit shall be provided with access to the required exits without passing through adjacent tenant spaces, dwelling units, and sleeping units.
(Ord. 20257 §46; October 19, 2015).

20.06.470 Chapter 11 Deleted; Accessibility.

Chapter 11 of the International Building Code and all sections thereof are hereby deleted. This section will be covered by State law and regulations.

For all public and commercial buildings and facilities, the Nebraska Accessibility Guidelines (2010 ADA Standards) shall apply to buildings and facilities which are newly constructed for first occupancy and to alterations of existing buildings and facilities used by the public.

Exception: The Nebraska Accessibility Guidelines shall not apply to any private club (except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation), or to any religious entity. (Ord. 20257 §47; October 19, 2015).

20.06.480 Energy Efficiency.

For purposes of compliance with the State Building Code and the Nebraska Energy Code, Chapter 13 of the 2009 International Building Code has been adopted at Section 20.06.010 of this Code. The requirements of the Nebraska Energy Code, Neb. Rev. Stat. §§ 81-1611 through 81-1626, shall apply to all new buildings or portions thereof which are heated and/or mechanically cooled. (Ord. 20257 §48; October 19, 2015).

20.06.490 Sections 1403.6 and 1403.7 Deleted; Flood Resistance.

Sections 1403.6 and 1403.7 of the International Building Code are hereby deleted. This section will be covered by Lincoln Municipal Code Chapters 27.52 and 27.53. (Ord. 20257 §49; October 19, 2015).

20.06.500 Section 1404.2 Amended; Water-Resistive Barrier.

Section 1404.2 of the International Building Code is amended to read as follows:

1404.2 Water-resistive barrier. One layer of water-resistive barrier (WRB), free from holes, complying with ASTM E2556 for type II WRB or ICC acceptance criteria (AC212) for liquid weather barriers or other WRB systems as approved by the building official shall be applied over sheathing of all exterior walls. Such WRB shall be applied horizontally, with the upper layer lapped over the lower layer not less than two inches. Where vertical joints occur, the WRB shall be lapped not less than six inches. The WRB shall be continuous to the top of walls and terminated at penetrations and building appendages with flashing as described in Section 1405.4, in such a manner as to provide a continuous water resistive barrier behind exterior wall veneer.

Manufactured and natural adhered masonry veneer and stucco shall be installed over an approved rain screen (drainage system) that has a minimum depth of 1/8 inch. The 1/8 inch space shall be formed by the use of any non-corrodible furring strip, drainage mat, or drainage board. A water-resistant barrier shall be installed between the rain screen and the wall sheathing. Asphalt paper (#15) shall not be permitted as a water-resistant barrier for adhered veneer and stucco.

Exceptions:

1. A space is not required where the exterior veneer is installed with a second WRB complying with Section 1404.2, which is manufactured in a manner to enhance drainage and meets the 75% efficiency drainage requirement of ASTM E2273, ICC-ES AC24, ICC-ES AC235 or other recognized national standards and is installed over a WRB complying with Section 1404.2.
2. The water-resistive barrier for detached accessory building less than 120 square feet is not required. (Ord. 20257 §50; October 19, 2015).

20.06.510 Section 1405.3 Amended; Vapor Retarders.

Section 1405.3 of the International Building Code is amended to read as follows:

1405.3 Vapor Retarders. Class I vapor retarders are not permitted on the interior side of the exterior walls. Permeable moisture control materials installed on the interior side of exterior walls shall be listed as either a Class II, excluding Kraft-faced fiberglass batts, or Class III vapor retarder with a perm rating between 0.1 and equal to or less than 10. (Ord. 20257 §51; October 19, 2015).

20.06.520 Section 1405.5 Amended; Wood Veneers.

Section 1405.5 of the International Building Code is amended to read as follows:

1405.5 Wood veneers. Wood veneers on exterior walls of buildings of Types I, II, III, and IV construction shall be not less than 1-inch nominal thickness, 0.438-inch exterior hardboard siding or 0.375-inch exterior-type wood structural panels or particle-board and shall conform to the following:

1. The veneer does not exceed three stories in height, measured from grade, except where fire-retardant-treated wood is used, the height shall not exceed four stories.
2. The veneer is attached to or furred from a non-combustible backing that is fire-resistance rated as required by other provisions of this code.
3. Where open or spaced wood veneers (without concealed spaces) are used, they shall not project more than 24 inches from the building wall.
4. Any deteriorated or rotting veneer shall be removed prior to installing new veneer. An approved weather barrier shall be installed over the existing wood exterior veneer prior to overlaying with a new veneer product. (Ord. 20257 §52; October 19, 2015).

20.06.530 Section 1406.3 Amended; Balcony and Similar Projections; Fire Resistance.

Section 1406.3 of the International Building code is amended to read as follows:

1406.3 Balconies and similar projections. Balconies, roof soffits, and similar projections of combustible construction other than fire-retardant-treated wood shall be fire-resistance rated in accordance with Table 601 for floor construction or shall be of Type IV construction in accordance with Section 602.4. The aggregate length shall not exceed 50 percent of the building's perimeter on each floor.

Exceptions:

1. On buildings of Type I and II construction, three stories or less in height, fire-retardant-treated wood shall be permitted for balconies, porches, decks, and exterior stairways not used as required exits.
2. Untreated wood is permitted for pickets and rails or similar guardrail devices that are limited to 42 inches in height.
3. Balconies and similar projections on buildings of Type III, IV, and V construction shall be permitted to be of Type V construction, and shall not be required to have a fire-resistance rating where sprinkler protection is extended to these areas.
4. Where sprinkler protection is extended to the balcony areas, the aggregate length of the balcony on each floor shall not be limited. (Ord. 20257 §53; October 19, 2015).

20.06.540 Section 1509.9 Added; Outdoor Deck Framing for Roof Top Seating and Assembly Areas.

Section 1509.9 is added to the International Building Code to read as follows:

1509.9 Outdoor deck framing for roof top seating and assembly areas. Combustible wood framing may be permitted on roof tops of buildings provided that the roof is not located more than 75 feet

above the lowest level of fire department vehicle access. In addition to this limitation, the combustible framing may not exceed four feet in height above the floor or deck level used as a walking surface. Similar structures that exceed 48 inches in height shall be of a type of construction not less in fire-resistance rating than required for the building to which it is attached. Occupied roofs shall be provided with exits as required for stories, regardless of whether roof top construction is enclosed or open to the sky. Any such structure that is covered shall be provided with all fire protection systems required for the building to which it is attached. All such structures intended for human occupancy shall have minimum 42-inch high guard rails regardless of their height above the plane of the roof. Floor deck area shall be limited to one-third total roof area. (Ord. 20257 §54; October 19, 2015).

20.06.550 Section 1510.3 Amended; Recovering Versus Replacement.

The Section 1510.3 of the International Building Code is amended to read as follows:

1510.3 Recovering versus replacement. New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement, or asbestos-cement tile.
3. Before applying new roof sheathing, all old roof covering materials shall be removed and the roof's original sheathing exposed. New roofing materials shall not be installed over existing rotten or deteriorated shingles or sheathing. No more than two layers of shingles may be installed on a roof. Subsequent roofing after two layers of shingles will require the removal of all shingles to the base roof sheathing or structure. (Ord. 20257 §55; October 19, 2015).

20.06.560 Section 1704.1 Amended; Special Inspections; General.

Section 1704.1 of the International Building Code is amended to read as follows:

1704.1 General. Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall employ one or more approved agencies to perform inspections during construction on the types of work listed under Section 1704. These inspections are in addition to the inspections identified in Section 110. Special inspections are mandatory to occupancy categories III and IV as described within IBC Table 1604.5.

The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the building official, for the inspection of the particular type of construction or operation requiring special inspection. The registered design professional in responsible charge and engineers of record involved in the design of the project are permitted to act as the approved agency and their personnel are permitted to act as the special inspector for the work designed by them, provided those personnel meet the qualification requirements of this section to the satisfaction of the building official. The special inspector shall provide written documentation to the building official demonstrating his or her competence and relevant experience or training. Experience or training shall be considered relevant when the documented experience or training is related in complexity to the same type of special inspection activities for projects of similar complexity and material qualities. These qualifications are in addition to qualifications specified in other sections of this code.

Exceptions:

1. Special inspections are not required for work of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.
2. Special inspections are not required for building components unless the design involves the practice of professional engineering or architecture as defined by applicable state statutes and regulations governing the professional registration and certification of engineers or architects.
3. Unless otherwise required by the building official, special inspections are not required for Group U occupancies that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1. (Ord. 20257 §56; October 19, 2015).

20.06.570 Section 1804.4 Deleted: Flood Hazard Areas, Grading and Fill.

Section 1804.4 of the International Building Code is hereby deleted. This section will be covered by Lincoln Municipal Code Chapters 27.52 and 27.53. (Ord. 20257 §57; October 19, 2015).

20.06.580 Section 1809.5 Amended; Frost Protection.

Section 1809.5 of the International Building Code is amended to read as follows:

1809.5 Frost protection. Foundation walls, piers, and other permanent supports of buildings and structures shall be protected by one or more of the following methods:

(1) Extending below the frost line of the locality; or

(2) Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Classified in Occupancy Category I, in accordance with Section 1604.5;
2. Area of 600 square feet or less for light-frame construction or 400 square feet or less for other than light-frame construction; and
3. Eave height of 10 feet or less.
4. ASCE 32 is an acceptable design method for structural stoop footings and area well walls.

Footings shall not bear on frozen soil unless such condition is of a permanent character. (Ord. 20257 §58; October 19, 2015).

20.06.590 Section 2304.11.5.1 Added; Deck Supporting Structure.

Section 2304.11.5.1 is added to the International Building Code read as follows:

2304.11.5.1 Deck supporting structure. Decks shall be supported by a continuous column and shall not be supported by the deck below. (Ord. 20257 §59; October 19, 2015).

20.06.600 Table 2308.8(1) Deleted; Floor Joist Spans for Residential Sleeping Areas.

Table 2308.8(1) of the International Building Code is hereby deleted. (Ord. 20257 §60; October 19, 2015).

20.06.610 Section 2410 Added; Window Cleaning Anchorage Systems.

Section 2410 is added to the Uniform Building Code to read as follows:

SECTION 2410

WINDOW CLEANING/EXTERIOR MAINTENANCE ANCHORAGE SYSTEMS

All buildings where window cleaning or exterior maintenance is performed employing suspended equipment shall be equipped with roof anchorage or other approved devices that will provide for safe use of the equipment in conformance with the provisions of ANSI IWCA I-14.1. Grading and landscaping shall be considered in determining the probability of suspended equipment being necessary. (Ord. 20257 §61; October 19, 2015).

20.06.620 Chapters 27, 28, and 29 Deleted; Electrical, Mechanical, Plumbing Systems.

Chapters 27, 28, and 29 of the International Building Code and all sections thereof are hereby deleted. These sections are covered by Lincoln Municipal Code Titles 23, 24, and 25. (Ord. 20257 §62; October 19, 2015).

20.06.630 Section 3202.3.3. Deleted; Encroachments 15 Feet or More Above Grade.

Section 3202.3.3 of the International Building Code is hereby deleted. (Ord. 20257 §63; October 19, 2015).

20.06.640 Section 3202.5 Added; Ornamental Facing.

Section 3202.5 of the International Building Code is amended to read as follows:

3202.5 Ornamental facing. Ornamental facing may be attached to an existing building provided such such building has been in existence for more than ten years. Such ornamental facing may extend not more than 8 inches beyond the lot line on any city street, sidewalk, or other public ground where such building is so located that it cannot be refaced without such occupancy of public property; provided such occupancy is not prohibited by state or federal regulations; and provided further such ornamental facing shall not be less than 9 feet in the clear above the sidewalk, street level, or finish grade immediately below. Ornamental facing may be added to existing buildings provided it not extend more than 2 inches the lot line on the public ground to the finish grade. (Ord. 20257 §64; October 19, 2015).

20.06.650 Section 3303 Amended; Demolition of Buildings.

Section 3303 of the International Building Code is amended to read as follows:

SECTION 3303
DEMOLITION OF BUILDINGS

3303.1 Purpose. The purpose of this section is to regulate and provide minimum standards for the demolition of buildings.

3303.2 Definition. For the purpose of this section, the word "demolish" is defined as follows: Demolish shall mean and include the razing, tearing down, or removal of all or part of a building; the removal of the outer facing of a building but leaving a skeleton or structural frame; or the removal of an upper story or stories of a building. Demolish shall also include "deconstruction" which is the whole or partial disassembly of structures for the purposes of reusing salvaged building materials.

3303.3 Demolition permit.

3303.3.1 Permit required. No person shall demolish or remove a building, or part thereof, without first having obtained a permit therefor from the building official.

3303.3.2 Application for permit. To obtain a demolition permit the applicant shall first file an application therefor in writing on a form furnished by the building official. Such application shall set forth a statement of the facts necessary to fully describe the building, its use, its legal description, and address. Provisions shall be made by the applicant for the proper abandonment of all utilities as required by this code before a demolition permit may be issued. Applications for demolition permits shall expire 180 days after the application date.

3303.4 Advisory note; safety requirements. All demolition work should be performed in conformance with "Safety Requirements for Demolition," ANSI A10.6-1990 as published by American National Standards Institute, Inc.

3303.5 Liability insurance. Whenever any building which is to be demolished has been used, or is being used, for any occupancy group except detached one- or two-family occupancies, the person applying for the demolition permit shall, as a part of the application, be required to:

1. At all times maintain public liability insurance coverage for all claims arising out of all work in the City of Lincoln and within three miles of the corporate limits thereof done by or under the supervision of the demolition 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 City Attorney, with a minimum combined single limit of $500,000.00 aggregate for any one occurrence on any job for which a permit is required under this code, provided the City of Lincoln shall be named an additional insured thereunder. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section.

2. At all times keep on file with the building official 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 City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the city as an additional insured for the coverage required by subsection 1 of this section, 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 thirty days notice by mail to the building official before the insurer may cancel the policy for any reason, and upon request of the building official or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination,

reduction, or lapse of such insurance shall automatically terminate the privilege of the demolition contractor to be issued permits under the provisions of this code, unless other insurance meeting the requirements of this section is provided and in full force and effect at the time of such termination or cancellation.

Where the building official determines that the proposed demolition of a building involves a greater risk than normal, the building official may require a certificate evidencing liability coverage in excess of the minimum sum stated above.

3303.6 Permit fees. A fee for each demolition permit shall be paid to the building official as set forth in Section 20.06.130 of the Lincoln Municipal Code.

Where work for which a permit is required by this chapter is commenced prior to obtaining said permit, the fees above specified shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter in the execution of the work or from any other penalties prescribed herein.

The applicant shall apply and pay for any street use permit and any permit for parking meters which shall be out of use during the demolition. Fee refunds shall be in accordance with Section 109.6.

3303.7 Utility disconnection. All water and sanitary sewer services shall be disconnected and sealed in accordance with the Lincoln Municipal Code Chapter 17.10 and said disconnects shall be inspected and approved by the Public Works and Utilities Department.

3303.8 Completion of demolition work. All demolition work, including the removal of the foundation, must start within 30 days and must be completed within 60 days from the date of the demolition permit issuance. Upon completion of the demolition work, the applicant shall clean the premises of all debris, request an inspection of the premises, and then fill all excavations and grade the area with top soil or other material approved by the building official.

3303.9 Building official may stop demolition. The building official shall have the authority to stop the demolition or removal of any building or structure or part thereof, when the same is being done in a reckless or careless manner, or in violation of the provisions of this chapter or any other ordinances of the city. When such work is stopped by order of the building official, it shall not be resumed without approval of the building official.

A demolition permit may be revoked by the building official at any time upon a violation of the terms thereof, or upon a violation of any provision of this chapter or any other ordinance of the city.

3303.10 Securing the demolition site. All demolition sites shall be secured at all times during the demolition process.

3303.11 Expiration. All demolition permits shall expire after 60 days from issuance. The building official may allow an extension of 30 days due to extenuating circumstances. Demolition must be completed in accordance with 3303.8. (Ord. 20257 §65; October 19, 2015).

20.06.660 Section 3306.2 Amended; Walkways.

Section 3306.2 of the International Building Code is amended to read as follows:

3306.2 Walkways. Protection shall be provided for pedestrians on all sides of a building being constructed or demolished that borders on a public street or alley by providing a covered walkway 4 feet in clear width and 7 feet in clear height, or as required by Lincoln Municipal Code Chapter 14.29. Such walkway shall be covered on top with 2-inch (nominal) planking as a minimum, and the sides next to the building shall be covered with plywood or other materials approved by the building official. The side of the walkway next to the street shall have a splash guard at least 2 feet in height to protect the pedestrian from splashing caused by passing automobiles. The building official may also require a raised subfloor in the walkway. The space within the walkway and the approaches thereto shall be kept well lighted with artificial lighting continuously between sunset and sunrise. Walkways shall be designed to be accessible in accordance with Nebraska Accessibility Guidelines. (Ord. 20257 §66; October 19, 2015).

20.06.670 Section 3306.4 Amended; Construction Fences.

Section 3306.4 of the International Building Code is amended to read as follows:

3306.4 Construction fences. Construction fences shall be at least 4 feet in height and shall be securely anchored at each end and every 15 feet of length. The largest opening in the fence shall be such that a

6-inch sphere may not pass through it. The fence shall be erected a distance from the building equal to the height of the building or as otherwise approved by the building official. For the purposes of this section, construction fences shall also mean construction railings. (Ord. 20257 §67; October 19, 2015).

20.06.680 Section 3306.7 Deleted; Covered Walkways.

Section 3306.7 of the International Building Code is hereby deleted. (Ord. 20257 §68; October 19, 2015).

20.06.690 Section 3308.1 Amended; Temporary Use of Streets and Alleys.

Section 3308.1 of the International Building Code is amended to read as follows:

3308.1 Temporary use of streets and alleys. The use of public property shall meet the requirements of Lincoln Municipal Code Chapter 14.29. Whenever requested, plot plans and construction details shall be submitted for review by the agencies concerned.

3308.1.1 Obstructions. Construction materials and equipment shall not be placed or stored so as to obstruct access to fire hydrants, standpipes, fire or police alarm boxes, catch basins, or manholes, nor shall such material or equipment be located within 20 feet of a street intersection, or placed so as to obstruct normal observations of traffic signals or to hinder the use of public transit loading platforms.

3308.1.2 Storage on public property. Material and equipment necessary for work to be done under a permit shall not be placed or stored on public property except as authorized by Lincoln Municipal Code, Chapter 14.29. (Ord. 20257 §69; October 19, 2015).

20.06.700 Appendix C Adopted; Group U - Agricultural Buildings.

Appendix C of the International Building Code is hereby adopted. (Ord. 20257 §70; October 19, 2015).

20.06.710 Section C105 Added; Snow Load.

Section C105 is added to Appendix C of the International Building Code to read as follows:

C105 Roof snow load. Agricultural buildings located in the AG zoning district as regulated by the Lancaster County Zoning Regulations shall be designed for a minimum of 20# roof snow load. (Ord. 20257 §71; October 19, 2015).

Chapter 20.10

LINCOLN RESIDENTIAL BUILDING CODE

Sections:

20.10.010 Adoption of International Residential Code.
20.10.015 Section R101 Amended; Title, Scope and Purpose.
20.10.020 Section R102.1 Amended; Applicability; General.
20.10.025 Section R103 Amended; Department of Building and Safety.
20.10.030 Section R105.2 Amended; Work Exempt From Permit.
20.10.035 Section R105.3.1.1 Amended; Determination of Substantially Improved or Substantially Damaged Existing Buildings in Flood Hazard Areas.
20.10.040 Section R105.4.1 Added; Orders Not Stayed.
20.10.045 Section R105.5 Amended; Expiration.
20.10.050 Section R105.10 Added; Completion of Exterior.
20.10.055 Section R106.2 Amended; Site Plan or Plot Plan.
20.10.060 Section R108 Amended; Fees.
20.10.065 Section R109 Section Heading Amended; Inspections and Surveys.
20.10.070 Section R109.1 Amended; Types of Inspections.
20.10.075 Section R109.1.2 Amended; Setback Verification.
20.10.080 Section R109.1.4 Amended; Frame Inspection.
20.10.085 Section R109.1.7 Added; Reinspections.
20.10.090 Section R109.5 Added; Address Identification.
20.10.095 Section R110 Amended; Certificate of Occupancy.
20.10.100 Section R111 Deleted; Service Utilities.
20.10.105 Section R112 Amended; Board of Appeals.
20.10.110 Section R113.3 Amended; Prosecution of Violation.
20.10.115 Section R113.4 Amended; Violation Penalties.
20.10.120 Section R114 Amended; Stop Work Order.
20.10.125 Section R115 Added; Demolition of Buildings.
20.10.130 Section R202 Amended; Definitions.
20.10.135 Table No. R301.2(1) Amended; Climatic and Geographic Design Criteria.
20.10.140 Section R301.2.4 Amended; Flood Plain Construction.
20.10.145 Table R301.5 Amended; Minimum Uniformly Distributed Live Loads.
20.10.150 Table R301.7 Amended; Allowable Deflection of Structural Members.
20.10.155 Section R302.1 Amended; Exterior Walls.
20.10.160 Table R302.1(1) Amended; Exterior Walls.
20.10.165 Section R302.2 Amended; Townhouses.
20.10.170 Figure R302.2 (1) Added; Typical Party Wall Section; Two 1 Hour Walls.
20.10.175 Figure R302.2 (2) Added; Typical Party Wall Section; 2 Hour Non Bearing Wall With Parallel Bearing Walls.
20.10.180 Figure R302.2 (3) Added; Typical Party Wall Section; One 2 Hour Shaft Wall.
20.10.185 Figure R302.2 (4) Added; Typical Party Wall Section; Single 2 Hour Wall.
20.10.190 Section R302.2.4 Exception 5 Deleted; Structural Independence.
20.10.195 Section R302.3 Amended; Two-family Dwellings.
20.10.200 Section R302.5.1 Amended; Opening Protection.
20.10.205 Section R302.5.2 Deleted; Duct Penetration.
20.10.210 Section R302.6 Amended; Separation Required.
20.10.215 Table R302.6 Amended; Dwelling/Garage Fire Separation.
20.10.220 Section R303.1 Exception 2 Amended; Habitable Rooms.
20.10.225 Section R303.3 Amended; Bathrooms.
20.10.230 Section R303.4 Amended; Mechanical Ventilation.

20.10.235 Sections R303.5, 303.5.1, 303.5.2 Amended; Opening Protection.
20.10.240 Section R303.6 Amended; Outside Opening Protection.
20.10.245 Section R305 Amended; Ceiling Heights.
20.10.250 Section R306.2 Amended; Kitchen.
20.10.255 Figure R307.1 Amended; Minimum Fixture Clearances.
20.10.260 Section R307.3 Added; Access to Whirlpool Pump.
20.10.265 Section R308.4.2 Exception No. 3 Deleted; Glazing Adjacent Doors.
20.10.270 Section R308.4.5 Amended; Glazing and Wet Surfaces.
20.10.275 Section R309.3 Amended; Garages and Carports; Flood Hazard Areas.
20.10.280 Section R309.5 Deleted; Fire Sprinklers.
20.10.285 Section R310.1 Amended; Emergency Escape and Rescue Required.
20.10.290 Section R310.1.1 Exception Deleted; Minimum Opening.
20.10.295 Section R310.1.5 Added; Double Hung Egress Window.
20.10.300 Section R310.3 Amended; Bulkhead Enclosures.
20.10.305 Section R311.3.2 Amended; Floor Elevations for Other Exterior Doors.
20.10.310 Section R311.7 Amended; Stairways.
20.10.320 Section R312.1.1 Amended; Guards, Where Required.
20.10.325 Section R312.1.3 Amended; Guards, Opening Limitations.
20.10.330 Section R313 Deleted; Automatic Fire Sprinkler Systems.
20.10.335 Section R314.3 Amended; Single- and Multiple-Station Smoke Alarms.
20.10.340 Section R314.4 Amended; Smoke Alarms; Power Source.
20.10.345 Section R314.5 Amended; Smoke Alarms; Interconnection.
20.10.350 Section R315 Amended; Carbon Monoxide Alarms.
20.10.355 Section 317.1 Amended; Protection of Wood and Wood Based Products Against Decay; Location Required.
20.10.360 Section R317.1.2 Deleted; Ground Contact.
20.10.365 Section R317.1.4 Amended; Wood Columns.
20.10.370 Section R319 Amended; Premises Identification.
20.10.375 Section R320 Deleted; Accessibility.
20.10.380 Section R322 Deleted; Flood-Resistant Construction.
20.10.385 Section R401.3 Amended; Foundations; Drainage.
20.10.390 Table R401.4.1 Amended; Load Bearing Values.
20.10.395 Section R403.1 Amended; Footings; General.
20.10.400 Section R403.1.1 Amended; Footings, Minimum Size.
20.10.405 Table R403.1 Amended; Minimum Width of Footings.
20.10.410 Figure R403.1(1) Amended; Minimum Footing Reinforcement.
20.10.415 Section R403.1.3.2 Amended; Slabs-on-Ground with Turned-Down Footings.
20.10.420 Section R403.1.4.1 Amended; Frost Protection.
20.10.425 Section R403.1.6 Amended; Foundation Anchorage.
20.10.430 Section R403.1.7.3 Amended; Foundation Elevation.
20.10.435 Section R403.3 and Subsections, Tables and Figures Deleted; Frost Protected Shallow Foundations.
20.10.440 Section R403.4.1 Deleted; Crushed Stone Footings.
20.10.445 Table R403.4 Deleted; Minimum Depth of Crushed Stone Footings.
20.10.450 Table R404.1.1(1) Deleted; Plain Masonry Foundation Walls.
20.10.455 Figure R404.1.1(3) Added; Permanent Masonry Foundation Basement Wall Section.
20.10.460 Table R404.1.2 (1) Deleted; Minimum Horizontal Reinforcement for Concrete Basement Walls.
20.10.465 Table R404.1.2(2)Deleted; Minimum Vertical Reinforcement for 6-inch Nominal Flat Concrete Basement Walls.
20.10.470 Table R404.1.2(3) Deleted; Minimum Vertical Reinforcement for 8-inch Nominal Flat Concrete Basement Walls.

20.10.475 Table R404.1.2(4) Deleted; Minimum Vertical Reinforcement for 10-inch Nominal Flat Concrete Basement Walls.
20.10.480 Table R404.1.2(8) Deleted; Minimum Vertical Reinforcement for 6-, 8-, 10-inch and 12-inch Nominal Flat Basement Walls.
20.10.485 Table 404.1.2 (9) Deleted; Minimum Spacing for Alternate Bar Size and/or Alternate Grade of Steel.
20.10.490 Section R404.1.2.2 Amended; Reinforcement for Foundation Walls.
20.10.495 Figures R404.1.2.2(1) through R404.1.2.2(2) Added; Reinforcement for Foundation Walls.
20.10.500 Figure R404.1.2.2.1 Added; Deadman/4 foot Concrete Wall.
20.10.505 Section 404.1.5.2 Amended; Concrete Wall Thickness.
20.10.510 Figure 404.1.5.2 Added; Garage Stub Wall Foundation Detail.
20.10.515 Section R408.7 Deleted; Flood Resistance.
20.10.520 Section R501.3 Deleted; Fire Protection of Floors.
20.10.525 Section R502.2.3 Amended; Deck Lateral Load Connection.
20.10.530 Section R502.3 Amended; Allowable Joist Spans.
20.10.535 Section R502.7 Amended; Lateral Restraint at Supports.
20.10.540 Section R502.10 Amended; Framing of Openings.
20.10.545 Table R602.3(1) Amended; Fastener Schedule for Structural Members.
20.10.550 Figure R602.10.3.5 Added; Alternate Braced Wall Panel at Garage Door Openings.
20.10.555 Figure R602.10.4 Added; Braced Walls Using Continuous OSB Sheathing.
20.10.560 Section R702.7 Amended; Vapor Retarders.
20.10.565 Section R703.1 Amended; Exterior Covering; General.
20.10.570 Section R703.2 Amended; Water Resistive Barrier.
20.10.575 Section R703.6.3 Amended; Water-Resistive Barriers.
20.10.580 Table R703.7.3.1 Deleted; Allowable Spans for Lintels Supporting Masonry Veneer.
20.10.585 Section R703.7.3 Deleted; Lintels.
20.10.590 Section R703.7.4 Amended; Anchorage.
20.10.595 Section R703.7.4.2 Deleted; Air Space.
20.10.600 Figure R703.7 Deleted; Masonry Veneer Wall Details.
20.10.605 R703.7.5 Amended; Flashing.
20.10.610 Section R703.7.6 Amended; Weepholes.
20.10.615 Section R703.8 Amended; Flashing.
20.10.620 Section R703.9.2.1 Amended; Water-Resistive Barrier.
20.10.625 Section R703.9.2.2 Amended; Installation.
20.10.630 Section R703.12.1 Amended; Adhered Masonry Veneer; Clearances.
20.10.635 Section R703.12.3 Added; Adhered Masonry Veneer; Water-Resistive Barrier.
20.10.640 Section R802.3 Amended; Framing Details.
20.10.645 Section R802.11.1 Amended; Roof Tie-Down; Uplift Resistance.
20.10.650 Section R802.11.2 Amended; Roof Tie-Down; Truss Uplift Resistance.
20.10.655 Section R806.5 Amended; Unvented Attic and Unvented Enclosed Rafter Assemblies.
20.10.660 Section R905.2.7.1 Amended; Ice Barrier.
20.10.665 Section R907.3 Amended; Reroofing; Recovering Versus Replacement.
20.10.670 Section R1003.11 Deleted; Masonry Chimneys; Flue Lining (Material).
20.10.675 Section R1003.11.2 Deleted; Flue Linings for Specific Appliances.
20.10.680 Section R1003.11.3 Deleted; Gas Appliances.
20.10.685 Section R1003.11.4 Amended; Pellet Fuel-Burning Appliances.
20.10.690 Section R1003.11.5 Deleted. Oil-fired Appliances.
20.10.695 Section R1003.14 Deleted; Flue Area (Appliance).
20.10.700 Section R1004.4 Deleted; Unvented Gas Log Heaters.
20.10.705 Energy Conservation.
20.10.710 Chapters 12 through 43 of the International Residential Code Deleted.

20.10.010 Adoption of International Residential Code.

Except as hereinafter provided by specific amendment, the following publications are hereby adopted and incorporated into Title 20 of the Lincoln Municipal Code:

(a) All but Chapter 11 of the International Residential Code for one- and two-family dwellings, 2012 Edition, first printing, hereinafter referred to as the International Residential Code; and

(b) Chapter 11 of the International Residential Code for one- and two-family dwellings, 2009 Edition, fifth printing; and

(c) Elevated Residential Structures F.E.M.A. Publication No. 54, dated March 1984, published by U.S. Government Printing Office: 2002-717-395/96287. This document is adopted for reference to design standards and techniques only, as set forth in Chapters 27.52 and 27.53 of the Lincoln Municipal Code.

One printed copy of the above publications have been filed in the office of the City Clerk for use of and examination by the public. (Ord. 20256 §1; October 19, 2015).

20.10.015 Section R101 Amended; Title, Scope and Purpose.

Section R101 of the International Residential Code is amended to read as follows:

R101.1 Title. These provisions shall be known as the Residential Code for One- and Two-Family Dwellings of the City of Lincoln, Lancaster County, Nebraska, and shall be cited as such and will be referred to herein as "this code."

R101.2 Scope. The provisions of the *International Residential Code for One- and Two-Family Dwellings* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade in height with a separate means of egress and their accessory structures within the city or within three miles of the corporate limits of the city and outside of any other organized city or village.

Exception: Live/work units complying with the requirements of Section 419 of the International Building Code shall be permitted to be built as one- and two-family dwellings or townhouses under the International Residential Code for One- and Two-family Dwellings.

R101.3 Purpose. The purpose of this code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the city and within three miles of the corporate limits of the city and outside of any other organized city or village, and regulating certain equipment specified herein.

The purpose of this code is not to create or otherwise establish or designate any particular case or group of persons who will or should be especially protected or benefitted by the terms of this code. (Ord. 20256 §2; October 19, 2015).

20.10.020 Section R102.1 Amended; Applicability; General.

Section R102.1 of the International Residential Code is amended to read as follows:

R102.1 General. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where there is a conflict between the International Residential Code, as adopted or amended, any other section of the Lincoln Municipal Code, or recommendation or requirement from a manufacturer, the most restrictive shall govern. (Ord. 20256 §3; October 19, 2015).

20.10.025 Section R103 Amended; Department of Building and Safety.

Section R103 of the International Residential Code is amended to read as follows:

SECTION R103
DEPARTMENT OF BUILDING AND SAFETY

R103.1 Building official designated. The Department of Building and Safety is hereinafter designated as the Building Department under the jurisdiction of the Director of Building and Safety, who is hereinafter designated as the Building Official.

R103.2 Appointment. The Building Official shall be appointed by the Mayor.

R103.3 Deputies. In accordance with the prescribed procedures of the City of Lincoln and with the concurrence of the Mayor, the Building Official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners, and other employees. Such employees shall have powers under this code as delegated by the Building Official. (Ord. 20256 §4; October 19, 2015).

20.10.030 Section R105.2 Amended; Work Exempt From Permit.

Section R105.2 of the International Residential Code is amended to read as follows:

R105.2 Work exempt from permit. Permits shall not be required for the following. 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.

Building:

1. One-story detached accessory structures used as a playhouse provided the floor area does not exceed 65 square feet.
2. Fences not over 7 feet high.
3. Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
5. Residing and re-shingling. This exemption does not include new roof sheathing.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated, temporary, swimming pools that have a depth of 48 inches or less. Swimming pools are further regulated by Lincoln Municipal Code Chapters 8.36 and 8.38.
8. Swings and other playground equipment accessory to a one- or two-family dwelling.
9. Window awnings supported by an exterior wall. This exemption does not include replacement windows.
10. Sidewalks and Driveways. See Lincoln Municipal Code Chapter 14.75, Driveway Approaches and Curbs, and Chapter 14.80, Sidewalk Construction. (Ord. 20256 §5; October 19, 2015).

20.10.035 Section R105.3.1.1 Amended; Determination of Substantially Improved or Substantially Damaged Existing Buildings in Flood Hazard Areas.

Section 105.3.1.1 of the International Residential Code is amended to read as follows:

Section R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in Flood Hazard Areas. For buildings located in a floodplain or floodprone area within the City's zoning jurisdiction, the regulations and specifications set forth in Lincoln Municipal Code Chapters 27.52 and 27.53 shall apply. (Ord. 20256 §6; October 19, 2015).

20.10.040 Section R105.4.1 Added; Orders Not Stayed.

Section R105.4.1 is added to the International Residential Code to read as follows:

R105.4.1 Orders not stayed. Orders, deadlines, provisions, and/or penalties established by the Building Official or any other officer or other designated authority with the City of Lincoln charged with the administration and enforcement of any code or ordinance under the Lincoln Municipal Code shall not be stayed or nullified because of the issuance or granting of a building permit. (Ord. 20256 §7; October 19, 2015).

20.10.045 Section R105.5 Amended; Expiration.

Section R105.5 of the International Residential Code is amended to read as follows:

R105.5 Expiration. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 120 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

All permits shall expire after two years. New plans and permit will be required to extend the project. The Building Official is authorized to grant, by written request, one extension of time due to size and scope of

project for a period of not more than one year with the payment of two-thirds of the original building permit fee. (Ord. 20256 §8; October 19, 2015).

20.10.050 Section R105.10 Added; Completion of Exterior.

Section R105.10 is added to the International Residential Code to read as follows:

R105.10 Completion of Exterior. When a building permit is issued for new construction, addition, alteration, remodeling, or relocation of a single family or duplex dwelling and accessory buildings and structures, the roof and all exterior surfaces shall not be exposed for more than 12 months. (Ord. 20256 §9; October 19, 2015).

20.10.055 Section R106.2 Amended; Site Plan or Plot Plan.

Section R106.2 of the International Residential Code is amended to read as follows:

R106.2 Site plan or plot plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing the size and location of new construction and existing structures on the site and distances from lot lines. The site plan shall include elevations of existing property lines, street, and proposed foundation as per R403.1.7.3. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted. In addition, an 8 1/2 inch x 11 inch site plan shall be submitted as a part of the building permit application.

Exception: An 8 1/2 inch x 11 inch site plan is not required when electronic plans are submitted. (Ord. 20256 §10; October 19, 2015).

20.10.060 Section R108 Amended; Fees.

Section R108 of the International Residential Code is amended to read as follows:

SECTION R108
FEES

R108.1 General. Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in the fee schedule adopted in the following sections.

R108.2 Permit fees. The fee for each permit shall be as set forth in Table 1 set forth herein.

The determination of value or valuation to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent equipment. The Building Official may determine valuation by applying the International Code Council valuation or other recognized method of estimating building construction project cost.

The value or valuation used by the Building Official in computing the building permit and plan review fees is only an estimate and is not intended to be used as conclusive evidence of the actual value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent equipment for purposes of determining whether said value exceeds a certain percentage of the fair market value of the building in question.

R108.3 Plan review fees. When a plan or other data are required to be submitted by Section R105.3, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be an amount equal to 30% of the building permit fee shown in Table 1 for residential buildings of one and two dwelling units, or $30.00 whichever is greater. At time of submittal for an application for a building permit for residential buildings of one- and two-family dwelling units, a permit deposit of $100.00 shall be made by the applicant.

The plan review fees in this subsection are separate from and in addition to the permit fees specified in Section R108.2 and shall not be credited to the total building permit fee if such permit is issued. There shall be no refund for plan review after any plan review has been completed by the Department of Building and Safety, even if the application is withdrawn.

One additional plan review of corrections made on the original plans after the initial plan review shall be performed at no cost to the applicant; however, where plans require further corrections, are incomplete, or are changed necessitating additional plan review, an additional plan review fee shall be charged at the rate of ten percent of the total permit fee or $50.00, whichever is greater, for each additional review. Additional plan review fees may be applicable as set forth below:

Single-family and duplex limited permit reviews will be subject to an additional plan review fee at the rate of ten percent of the total building permit fee or $100.00, whichever is greater.

R108.4 Development permit fees.

R108.4.1 A fee shall be assessed for any floodplain development permit applied for under Lincoln Municipal Code Chapters 27.52 and 27.53 and shall be paid at the time of application therefor. The fee for each permit shall be as follows:

Floodplain Development Permit Fees

Floodplain Permit		15% of Building Fee ($250.00 Minimum)
Floodplain - All Other Development		$250.00
Floodplain Permit – Fill	$250.00	+ $50.00 per acre ($2,500.00 Maximum)
Floodplain – Mobile Home Placement	$50.00	
Floodplain – Accessory Buildings		$50.00
Floodplain – Residential Non-substantial Improvement		$100.00

R108.4.2 In those cases where a development permit is required for a structure, but a building permit is not required, the value of construction as determined by Section R108.2 of this code shall be used to calculate the development permit fee.

R108.4.3 Any work requiring a development permit commenced prior to the issuance of the permit shall result in the assessment of an investigation fee in accordance with Section R108.6.2 of this code, which investigation fee shall be in addition to the development permit fee.

R108.4.4 The Building Official may refund not more than two-thirds of the development permit fee when an application for which such fee has been paid is withdrawn or canceled prior to commencement of plan review.

R108.5 Expiration of plan review. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant prior to the expiration date showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay all new Building and Safety Department permit fees.

R108.6 Investigation fees. Work without a permit.

R108.6.1 Investigation. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

R108.6.2 Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The minimum investigation fee shall be the same as the minimum fee set forth in Table 1. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

TABLE 1- RESIDENTIAL PERMIT FEES - New, Remodel and Additions

Value of Construction	Building Permit Fee	Number of Inspections at Building Permit Fee
$1-$500	$35.00	2
$501-$25,000	$39.00 plus $4.00 for each additional $1,000, or fraction thereof, of value	3
$25,001-$100,000	$139.00 plus $2.00 for each additional $1,000, or fraction thereof, of value	4
$100,001-$200,000	$289.00 plus $2.00 for each additional $1,000, or fraction thereof, of value	5
$200,001-$300,000	$489.00 plus $2.00 for each additional $1,000, or fraction thereof, of value	6
$300,001-$400,000	$689.00 plus $2.00 for each additional $1,000 or fraction thereof, of value	7
Over $400,000	$889.00 plus $2.00 for each additional $1,000 or fraction thereof, of value	8

The fee for each inspection in excess of the number of inspections for each category of value of construction stated above shall be $30.00.

The fee for each re-inspection for which a deficiency is not corrected shall be $50.00.

Fees for additional plan reviews shall be 30% of the building permit fee.

Investigation of damage by any cause shall be $100.00 in addition to any building or demolition permits issues.

R108.7 Fee refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the total building permit fee, with the remaining one-third to be used to pay the cost of processing the permit. The Building Official may authorize refunding of not more than two-thirds of the plan review fee or permit deposit paid when an application for a permit for which such fee has been paid is withdrawn or canceled before any plan reviewing is done.

No refund shall be issued on a permit deposit or plan review fee, floodplain development fee, demolition fee, or any other fee collected by the department where the refund amount is less than $50.00. Where a fee has been collected in error, the Building Official may authorize a 100% refund.

R108.8 Demolition permit fees. No demolition, razing, or destructive removal of any structure covered by this code shall be permitted without the issuance of a demolition permit by the Building Official. Demolition permits for residential housing, other than garages, shall be $200.00. Demolition permits for residential garages shall be $30.00. (Ord 20256 §11; October 19, 2015).

20.10.065 Section R109 Section Heading Amended; Inspections and Surveys.

The section heading of Section R109 of the International Residential Code is amended to read as follows:

SECTION R109
INSPECTIONS AND SURVEYS

(Ord. 20256 §12; October 19, 2015).

20.10.070 Section R109.1 Amended; Types of Inspections.

Section R109.1 of the International Residential Code is amended to read as follows:

R109.1 Types of inspections. All construction or work for which a permit is required shall be subject to inspection by the Building Official and all such construction work shall remain accessible and exposed for inspection purposes until approved by the Building Official.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the City.

A survey of the lot or lots upon which permitted work for additions, alterations, or repairs are being accomplished shall be provided by a duly licensed surveyor of the State of Nebraska before plans and specifications shall be accepted by the Building Official to verify compliance of the construction or work with building line setback requirements of the Lincoln Municipal Code. All boundary corners of a lot or lots with permanent survey monuments shall be marked in the field by a duly licensed surveyor of the State of Nebraska.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

In the event any permit holder or permit holder's agent shall fail to request required inspections as herein provided, or in the event any permit holder or permit holder's agent shall have a backlog of one or more permits with no final inspections completed, or if any fees for any other building permits have not been paid, the Building Official is authorized to withhold further issuance of any permit or perform any further inspections under this code to said permit holder or the permit holder's agent until required inspections have been completed and all fees for all other building permits have been paid as provided by this code. (Ord. 20256 §13; October 19, 2015).

20.10.075 Section R109.1.2 Amended; Setback Verification.

Section R109.1.2 of the International Residential Code is amended to read as follows:

R109.1.2 Setback verification. A setback dimension greater than six inches over the minimum shall be verified by the Building Official. A setback dimension that is less than six inches but greater than two inches over the minimum dimension shall be verified by the Building Official using a string line between lot pins. A setback dimension that is two inches or less over the minimum shall be verified by a licensed surveyor prior to pouring the concrete for the walls. (Ord. 20256 §14; October 19, 2015).

20.10.080 Section R109.1.4 Amended; Frame Inspection.

Section R109.1.4 of the International Residential Code is amended to read as follows:

R109.1.4 Frame inspection. Inspection of framing construction shall be made after all framing, firestopping, draftstopping, and bracing are in place and after the water-resistive barrier and flashing is installed but before the exterior wall covering is installed. (Ord. 20256 §15; October 19, 2015).

20.10.085 Section R109.1.7 Added; Reinspections.

Section R109.1.7 is added to the International Residential Code to read as follows:

R109.1.7 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the Building Inspector initiates the inspection because the permit holder or his agent fails to schedule the inspection as per R109.3

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid. (Ord. 20256 §16; October 19, 2015).

20.10.090 Section R109.5 Added; Address Identification.

Section R109.5 is added to the International Residential Code to read as follows:

R109.5 Address identification. All additions, alterations, or repairs for which a permit is required by this code shall be provided with a construction address identification sign. Said identification sign shall be a sign of metal, wood, plastic, or other approved rigid material with permanent identification numbers and letters thereon indicating the legally assigned street or other type address assigned by the Building Official. Said identification sign shall have numbers and letters of such size and shall be so placed upon the construction site that said sign is readily visible and identifiable from the public street. Said identification sign shall be properly maintained during the entire period of time that the construction or work is being accomplished or maintained. (Ord. 20256 §17; October 19, 2015).

20.10.095 Section R110 Amended; Certificate of Occupancy.

Section R110 of the International Residential Code is amended to read as follows:

SECTION R110
CERTIFICATE OF OCCUPANCY

R110.1 Use and occupancy. No building or structure, other than Group U occupancies, shall be used or occupied, and no change in the existing use or occupancy classification of a building or structure or portion thereof shall be made, until the Building Official has issued a certificate of occupancy therefor as provided in Chapter 27.77 of the Lincoln Municipal Code.

It shall be the responsibility of a permit holder or the permit holder's agent to call for all required inspections, including the final inspection, of all additions, alterations, or repairs performed under a plumbing, mechanical, electrical or building permit. Final inspection shall be called for by the permit holder or the permit holder's agent prior to occupancy of the building or structure or portion thereof. In the event any permit holder or permit holder's agent shall fail to call for required inspections as herein provided or in the event any permit holder or permit holder's agent shall have a backlog of one or more permits with no final inspections completed, the Building Official is authorized to withhold further issuance of any permit or perform any further inspections under this code to said permit holder or the permit holder's agent until required inspections have been completed as provided by this code. Written notice of the withholding issuance of new permits shall be given to the permit holder by the Building Official.

R110.2 Change in use. Changes in the character or use of a building shall not be made except as specified in Section 3408 of the International Building Code.

R110.3 Certificate issued. After the Building Official performs a final inspection and observes that the required sidewalks along the frontage of any residential zoned single-family or two-family lot abutting upon a local or collector street have been installed, a certificate of occupancy shall be issued when it is found that the building or structure complies with requirements of issuance set forth in Chapter 27.77 of the Lincoln Municipal Code.

R110.4 Temporary certificate. If the Building Official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, a temporary certificate of occupancy may be issued for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure and issuance of the certificate of occupancy. If the temporary certificate of occupancy is issued for a single- or two-family dwelling located upon a single- or two-family lot abutting upon a local or collector street, the temporary certificate of occupancy shall be conditioned upon the sidewalks along the frontage of said lot being constructed during the same or next construction season.

R110.4.1 Temporary certificate limitations. Each temporary certificate of occupancy shall be limited to a term to be determined by the Building Official. (Ord. 20256 §18; October 19, 2015).

20.10.100 Section R111 Deleted; Service Utilities.

Section R111 of the International Residential Code and all subsections thereof are hereby deleted. (Ord. 20256 §19; October 19, 2015).

20.10.105 Section R112 Amended; Board of Appeals.

Section R112 of the International Residential Code is amended to read as follows:

SECTION R112
BOARD OF APPEALS

R112.1 Building Code Board of Appeals. The appeals board and appeals procedure adopted under Lincoln Municipal Code Section 20.06.210 pursuant to Section 113 of the International Building Code as amended by the City of Lincoln, shall serve as the appeals board and appeals procedure for this code.

R112.2 Limitations on authority - Deleted.

R112.2.1 Determination of substantial improvement in acres prone to flooding - Deleted.

R112.2.2 Criteria for issuance of a variance for areas prone to flooding - Deleted.

R112.3 Qualifications - Deleted.

R112.4 Administration - Deleted.

(Ord. 20256 §20; October 19, 2015).

20.10.110 Section R113.3 Amended; Prosecution of Violation.

Section R113.3 of the International Residential Code is amended to read as follows:

R113.3 Prosecution of violation. If the notice of violation is not complied with and the abatement or correction of the violation is not completed within the time frame given in the notice of violation, the Building Official may withhold issuance of any further building permits and may withhold any further inspection pending compliance with the order of abatement or correction and the City Law Department is authorized to institute the appropriate civil proceedings at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto. The Building Official may also refer violations to the City Law Department for prosecution under Lincoln Municipal Code Section 20.10.115. The Building Official may also revoke any building permit applicable to a building with violations of this code or any part of the Lincoln Municipal Code. (Ord. 20256 §21; October 19, 2015).

20.10.115 Section R113.4 Amended; Violation Penalties.

Section R113.4 of the International Residential Code is amended to read as follows:

R113.4 Violation penalties. Any person, firm, or corporation who shall violate any of the provisions of this code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00, or be imprisoned in the county jail for a period not to exceed six months, or by both such fine and imprisonment, except that each person so convicted shall be fined in a sum of not less than $200.00 for the first offense, not less than $250.00 for the second offense, and not less than $300.00 for the third offense and each offense thereafter. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 20256 §22; October 19, 2015).

20.10.120 Section R114 Amended; Stop Work Order.

Section R114 of the International Residential Code is amended to read as follows:

R114.1 Notice to owner. Upon notice from the Building Official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be delivered to the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work shall be permitted to resume. The Building Official may post the stop work order on the property subject to the permit. If the owner or owner's agent fails to comply with the stop work order or fails to correct any violations or unsafe and dangerous work practices ordered to be abated or corrected

within the time frame given in the stop work order, the Building Official shall withhold issuance of any further building permits and withhold any further inspections pending compliance with the stop work order and abatement or correction of any violations or unsafe and dangerous work practices.

R114.2 Time to correct violations. The International Residential Code violations or any other Lincoln Municipal Code violations stated in the stop work order shall be abated within the time frame directed by the Building Official, or be subject to penalties as prescribed in this code. (Ord. 20256 §23; October 19, 2015).

20.10.125 Section R115 Added; Demolition of Buildings.

Section R115 is added to the International Residential Code to read as follows:

SECTION R115
DEMOLITION OF BUILDINGS

R115.1 General. Demolition of buildings shall comply with Section 3303 of the International Building Code as adopted by the City of Lincoln in the Lincoln Municipal Code. Demolition under this code must start within thirty days and be completed sixty days after the date the permit was issued. The Building Official may extend a demolition permit an additional thirty days. Applications for demolition permits shall expire 180 days after the application date. In the event of a conflict between this section and any part of Lincoln Municipal Code Chapter 20.04 ("Dangerous Building Code"), the relevant section of the Dangerous Building Code shall control. (Ord. 20256 §24; October 19, 2015).

20.10.130 Section R202 Amended; Definitions.

Section R202 of the International Residential Code is amended to read as follows:

SECTION R202
DEFINITIONS

Other than the following, all definitions are adopted as printed in the 2012 International Residential Code:

ACCESSORY STRUCTURE. A structure not greater than 1,800 square feet in floor area, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

KITCHEN. A facility for cooking, storing, and preparing food. A kitchen shall include a stove, refrigerator, sink, and a minimum of 4 lineal feet of counter space. (Ord. 20256 §25; October 19, 2015).

20.10.135 Table No. R301.2(1) Amended; Climatic and Geographic Design Criteria.

Table No. R301.2(1) of the International Residential Code is amended to read as follows:

TABLE R301.2(1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD	WIND SPEED[d] (mph)	SEISMIC DESIGN CATEGORY[f]	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP[e]	ICE BARRIER UNDERLAYMENT REQUIRED[h]	FLOOD HAZARDS[g]
			Weathering[a]	Frost Line depth[b]	Termite[c]			
30 psf	90 mph	B	Severe	36"	moderate to heavy	70° F	Yes	See LMC 27.52 & 27.53

All footnotes to Table R301.2(1) of this code shall apply. (Ord. 20256 §26; October 19, 2015).

20.10.140 Section R301.2.4 Amended; Floodplain Construction.

Section R301.2.4 of the International Residential Code is amended to read as follows:

Section R301.2.4 Floodplain construction. For buildings located in a floodplain or floodprone area within the City's zoning jurisdiction, the regulations and specifications set forth in Lincoln Municipal Code Chapters 27.52 and 27.53 shall apply. (Ord. 20256 §27; October 19, 2015).

20.10.145 Table R301.5 Amended; Minimum Uniformly Distributed Live Loads.

Table R301.5 of the International Residential Code is amended to read as follows:

TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Attics with limited storage [b,g, h]	20
Attics without storage [b]	10
Attics served with a fixed stairs	40
Decks and exterior balconies [e]	40
Fire escapes	40
Guardrails and handrails [d]	200 [i]
Guardrails in-fill components [f]	50 [i]
Passenger vehicle garages [a]	50 [a]
Rooms other than sleeping rooms	40
Sleeping rooms	40
Stairs	40 [c]

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm^2, 1 pound = 4.45 N.

All footnotes to Table No. R301.5 of this code shall apply. (Ord. 20256 §28; October 19, 2015).

20.10.150 Table R301.7 Amended; Allowable Deflection of Structural Members.

Table R301.7 of the International Residential Code is amended to read as follows:

TABLE R301.7
ALLOWABLE DEFLECTION OF STRUCTURAL MEMBERS

STRUCTURAL MEMBER	ALLOWABLE DEFLECTION
Rafters having slopes greater than 3/12 with no finished ceiling attached to rafters	L/180
Interior walls and partitions	H/240
All other structural members L/240	L/240
Exterior walls with plaster or stucco finish	H/360
Exterior walls —wind loads[a] with brittle finishes	H/240

STRUCTURAL MEMBER	ALLOWABLE DEFLECTION
Exterior walls—wind loads[a] with flexible finishes	H/180
Floors – 16'6" or less	L/360
Floors over 16'6" span	L/480

Note: L = span length, H = span height.

All footnotes to Table R301.7 of this code shall apply. (Ord. 20256 §29; October 19, 2015).

20.10.155 Section R302.1 Amended; Exterior Walls.

Section R302.1 of the International Residential Code is amended to read as follows:

R302.1 Exterior walls. Construction, projections, openings, and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1). These provisions shall not apply to walls, projections, openings, or penetrations in walls that are perpendicular to the line used to determine the fire separation distance. Projections beyond the exterior wall shall not extend more than 12 inches into the areas where openings are prohibited. No part of a detached structure shall be closer than 2 feet from a lot line.

Exception 1: Detached tool sheds and storage sheds, playhouses and similar structures with a floor area of equal to or less than 120 square feet are not required to provide wall protection.

Exception 2: Detached accessory buildings greater than120 square feet with walls located less than 3 feet from a lot line shall be 1 hour protected with exposure from the inside with no openings.

Exception 3: An accessory building located less than 6 feet from a dwelling unit including decks greater than 30 inches above grade, shall be protected with no less than 5/8" type X gypsum board applied to the interior side of the walls and the ceiling. The door shall be no less than a solid core or steel door no less than 1 3/8" thickness. No other openings shall be permitted. (Ord. 20256 §30; October 19, 2015).

20.10.160 Table R302.1(1) Amended; Exterior Walls.

Table R302.1(1) of the International Building Code is amended to read as follows:

TABLE R302.1(1)
EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	(Fire-resistance rated)	1 hour with exposure from both sides*	0 feet
	(Not fire-resistance rated)	0 hours	3 feet
Projections	(Fire-resistance rated)	1 hour on the underside	<3 feet
	(Not fire-resistance rated)	0 hours	3 feet
Openings	Not allowed	N/A	<3 feet
	Unlimited	0 hours	3 feet
Penetrations	All	Comply with Section R302.4	<3 feet
		None required	3 feet

*Detached Garages- 1 hour protection from the inside only. (Ord. 20256 §31; October 19, 2015).

20.10.165 Section R302.2 Amended; Townhouses.

Section R302.2 of the International Residential Code is amended to read as follows:

R302.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior sheathing of exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with the City of Lincoln Electrical Code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (Ord. 20256 §32; October 19, 2015).

20.10.170 Figure R302.2 (1) Added; Typical Party Wall Section; Two 1 Hour Walls.

Figure R302.2 (1) is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §33; October 19, 2015).

20.10.175 Figure R302.2 (2) Added; Typical Party Wall Section; 2 Hour Non Bearing Wall With Parallel Bearing Walls.

Figure R302.2 (2) is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §34; October 19, 2015).

20.10.180 Figure R302.2 (3) Added; Typical Party Wall Section; One 2 Hour Shaft Wall.

Figure R302.2 (3) is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §35; October 19, 2015).

20.10.185 Figure R302.2 (4) Added; Typical Party Wall Section; Single 2 Hour Wall.

Figure R302.2 (4) is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §36; October 19, 2015).

20.10.190 Section R302.2.4 Exception 5 Deleted; Structural Independence.

Exception 5 to Section R302.2.4 of the International Residential Code is hereby deleted. (Ord. 20256 §37; October 19, 2015).

20.10.195 Section R302.3 Amended; Two-family Dwellings.

Section R302.3 of the International Residential Code is amended to read as follows:

R302.3 Two-family dwellings. Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies of not less than 1-hour fire-resistive rating when tested in accordance with ASTM E 119. Fire-resistance-rated floor-ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend to the underside of the roof sheathing. The minimum connection between units of a two-family dwelling shall be an 8-foot roof connection measured parallel to the adjoining walls and connected to each unit.

Exceptions:

1. A fire resistance rating of 1/2 hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.

2. Wall assemblies need not extend through attic spaces when the ceiling is protected by not less than 5/8-inch Type X gypsum board and an attic draft stop constructed as specified in Section R302.12.1 is provided above and along the wall assembly separating the dwellings. The structural framing supporting the ceiling shall also be protected by not less than 1/2-inch gypsum board or equivalent. (Ord. 20256 §38; October 19, 2015).

20.10.200 Section R302.5.1 Amended; Opening Protection.

Section R302.5.1 of the International Residential Code is amended to read as follows:

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb-core steel doors not less than 1 3/8 inches thick, or 20-minute fire-rated doors. (Ord. 20256 §39; October 19, 2015).

20.10.205 Section R302.5.2 Deleted; Duct Penetration.

Section R302.5.2 of the International Residential Code is hereby deleted. (Ord. 20256 §40; October 19, 2015).

20.10.210 Section R302.6 Amended; Separation Required.

Section 302.6 of the International Residential Code is amended to read as follows:

R302.6 Separation required. The garage shall be separated from the residence and its attic area by not less than 5/8-inch type X gypsum board applied to the garage wall side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than 5/8-inch type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than 5/8-inch type X gypsum board or equivalent. A cantilever projecting over a garage door shall be protected on the underside by not less than 5/8-inch Type X gypsum board.

Garages located less than 6 feet from a dwelling unit on the same lot shall be protected with not less than 5/8-inch type X gypsum board applied to the interior side of exterior walls that are within this area. Openings in these walls shall be regulated by Table R302.1(1). This provision does not apply to garage walls that are perpendicular to the adjacent dwelling unit wall. Accessory buildings 120 square feet or greater, located less than 6 feet from the residence shall be protected by not less than 5/8-inch type X gypsum board applied to the interior side, with no openings permitted. (Ord. 20256 §41; October 19, 2015).

20.10.215 Table R302.6 Amended; Dwelling/Garage Fire Separation.

Table R302.6 of the International Residential Code is amended to read as follows:

TABLE R302.6
DWELLING/GARAGE SEPARATION

SEPARATION	MATERIAL
From the residence and attics	Not less than 5/8-inch type X gypsum board or equivalent applied to the garage side.
Structure(s) supporting floor/ceiling assemblies used for separation required by this section	Not less than 5/8-inch type X gypsum board or equivalent.
Garages located less than 6 feet from a dwelling unit on the same lot	Not less than 5/8 type X gypsum board or equivalent applied to the interior side of exterior walls that area within this area.

(Ord. 20256 §42; October 19, 2015).

20.10.220 Section R303.1 Exception 2 Amended; Habitable Rooms.

Exception 2 of Section R303.1 of the International Residential Code is amended to read as follows:

2. The glazed areas shall not be required to be provided in habitable rooms in basements except for bedrooms where Exception 1 above is satisfied and artificial light is provided capable of producing an average illumination of 6 foot candles over the area of the room at a height of 30 inches above the floor level. The glazed area required for a basement bedroom shall be a maximum of 11.5 square feet. (Ord. 20256 §43; October 19, 2015).

20.10.225 Section R303.3 Amended; Bathrooms.

Section R303.3 of the International Residential Code is amended to read as follows:

R303.3 Bathrooms. Bathrooms, water closet compartments, laundry rooms, and other similar rooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 cfm for intermittent ventilation or 20 cfm for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside.

In laundry rooms, dryers vented directly to the outside are deemed to meet the requirements of this section. (Ord. 20256 §44; October 19, 2015).

20.10.230 Section R303.4 Amended; Mechanical Ventilation.

Section R303.4 of the International Residential Code is amended to read as follows:

R303.4 Mechanical ventilation. See Lincoln Municipal Code Chapter 25.04, Lincoln Mechanical Code. (Ord. 20256 §45; October 19, 2015).

20.10.235 Sections R303.5, 303.5.1, 303.5.2 Amended; Opening Protection.

Section R303.5, and subsections 303.5.1 and 303.5.2 of the International Residential Code are amended to read as follows:

R303.5 Opening location. See Lincoln Municipal Code Chapter 25.04, Lincoln Mechanical Code.

R303.5.1 Intake openings. See Lincoln Municipal Code Chapter 25.04, Lincoln Mechanical Code.

R303.5.2 Exhaust openings. See Lincoln Municipal Code Chapter 25.04, Lincoln Mechanical Code. (Ord. 20256 §46; October 19, 2015).

20.10.240 Section R303.6 Amended; Outside Opening Protection.

Section R303.6 of the International Residential Code is amended to read as follows:

R303.6 Outside opening protection. See Lincoln Municipal Code Chapter 25.04, Lincoln Mechanical Code. (Ord. 20256 §47; October 19, 2015).

20.10.245 Section R305 Amended; Ceiling Heights.

Section R305 of the International Residential Code is amended to read as follows:

SECTION R305
CEILING HEIGHT

R305.1 Ceiling Heights. Habitable space shall have a ceiling height of not less than 7 feet, 6 inches. The required height shall be measured from the finished floor to the lowest projection from the ceiling.

Exceptions:

1. Bathrooms, hallways, toilet rooms and laundry rooms shall have a ceiling height of not less than 7 feet.

2. For rooms with sloped ceilings, at least 50 percent of the required floor area of the room must have a ceiling height of at least 7 feet 6 inches. No portion of the room with a ceiling height of less than 5 feet shall be included.

3. The ceiling height above bathroom fixtures shall be such that the fixture is capable of being used for its intended purpose. A shower or tub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches above a minimum area 30 inches by 30 inches at the showerhead.

R305.1.1 Basements. Habitable space in basements within a single family dwelling unit shall have a ceiling height of not less than 7 feet.

Exceptions:

1. Beams, soffits, ducts and piping shall not be less than 6 feet 6 inches from the floor and shall not exceed 1/3 of the total ceiling area of the room.

2. Bathrooms, hallways, toilet rooms and laundry rooms shall have a minimum ceiling height of 6 feet 8 inches.

3. Lighting fixtures shall be a minimum of 6 feet 6 inches above the floor.

4. Ceiling fans shall be a minimum of 7 feet from the floor.

R305.2 Headroom clearance. Any portion of a garage shall have an unobstructed headroom clearance of not less than 6 feet 8 inches above the finished floor to any ceiling, beam, pipe, or similar construction except for wall-mounted shelves, storage surfaces, racks, or cabinets. (Ord. 20256 §48; October 19, 2015).

20.10.250 Section R306.2 Amended; Kitchen.

Section R306.2 of the International Residential Code is amended to read as follows:

R306.2 Kitchen. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink. Domestic free-standing or built-in ranges shall have a vertical clearance above the cooking top of not less than 30 inches to unprotected combustible material. When the underside of such combustible material is protected with insulating millboard at least 1/4 inch thick covered with 28 gage metal or a metal ventilating hood, the distance shall be not less than 24 inches. (Ord. 20256 §49; October 19, 2015).

20.10.255 Figure R307.1 Amended; Minimum Fixture Clearances.

Figure R307.1 of the International Residential Code is amended to read as follows:

FIGURE R307.1

MINIMUM FIXTURE CLEARANCES

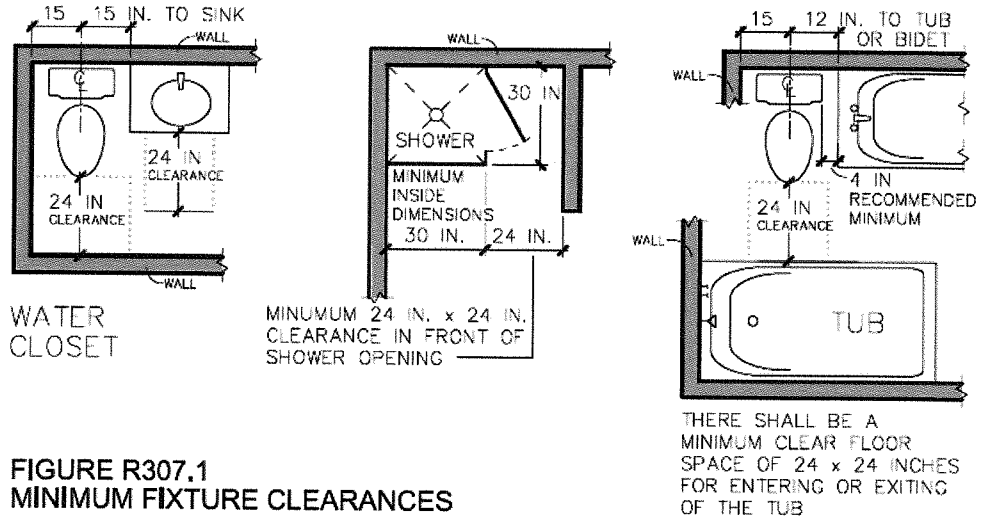


FIGURE R307.1
MINIMUM FIXTURE CLEARANCES

(Ord. 20256 §50; October 19, 2015).

20.10.260 Section R307.3 Added; Access to Whirlpool Pump.

Section R307.3 is added to the International Residential Code to read as follows:

R307.3 Access to whirlpool pump. Access shall be provided to circulation pumps in accordance with the fixture manufacturer's installation instructions. Where the manufacturer's instructions do not specify the location and minimum size of field fabricated access openings, a 12-inch by 12-inch minimum size opening shall be installed to provide access to the circulation pump. Where pumps are located more than 2 feet from the access opening, an 18-inch by 18-inch minimum size opening shall be installed. A door or panel shall be permitted to close the opening. In all cases, the access opening shall be unobstructed and be of the size necessary to permit the removal and replacement of the circulation pump. (Ord. 20256 §51; October 19, 2015).

20.10.265 Section R308.4.2 Exception No. 3 Deleted; Glazing Adjacent Doors.

Exception No. 3 in Section R308.4.2 of the International Residential Code is hereby deleted. (Ord. 20256 §52; October 19, 2015).

20.10.270 Section R308.4.5 Amended; Glazing and Wet Surfaces.

Section R308.4.5 of the International Residential Code is amended to read as follows:

R308.4.5 Glazing and wet surfaces. Glazing in walls, enclosures or fences containing hot tubs, spas, whirlpools, saunas, steam rooms, bathtubs, showers and indoor or outdoor swimming pools where the bottom exposed edge of the glazing is less than 60 inches measured vertically above any standing or walking surface shall be considered a hazardous location. This shall apply to single glazing and all panes in multiple glazing.

Exception: Glazing that is more than 60 inches, measured horizontally and in a straight line, from the water's edge of a bathtub, hot tub, spa, whirlpool, or swimming pool. (Ord. 20256 §53; October 19, 2015).

20.10.275 Section R309.3 Amended; Garages and Carports; Flood Hazard Areas.

Section R309.3 of the International Residential Code is amended to read as follows:

R309.3 Flood hazard areas. For buildings located in a floodplain or floodprone area within the City's zoning jurisdiction, the regulations and specifications set forth in Lincoln Municipal Code Chapters 27.52 and 27.53 shall apply. (Ord. 20256 §54; October 19, 2015).

20.10.280 Section R309.5 Deleted; Fire Sprinklers.

Section R309.5 of the International Residential Code is hereby deleted. (Ord. 20256 §55; October 19, 2015).

20.10.285 Section R310.1 Amended; Emergency Escape and Rescue Required.

Section R310.1 of the International Residential Code is amended to read as follows:

R310.1 Emergency escape and rescue required. Basements, habitable attics and every sleeping room shall have at least one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room. Rooms with a storage closet greater than 18 inches in depth or direct access to a bathroom shall also comply with this requirement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches measured from the finished floor to the bottom of the clear opening. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be in accordance with Section R310.2. Emergency escape and rescue openings shall open directly into the a public way, or a yard or court that opens to a public way.

Exception: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet. (Ord. 20256 §56; October 19, 2015).

20.10.290 Section R310.1.1 Exception Deleted; Minimum Opening.

The Exception to Section R310.1.1 of the International Residential Code is hereby deleted. (Ord. 20256 §57; October 19, 2015).

20.10.295 Section R310.1.5 Added; Double Hung Egress Window.

Section R310.1.5 is added to the International Residential Code to read as follows:

R310.1.5 Double hung egress window. Double hung windows must meet the requirements for an egress window without removing the upper sash. (Ord. 20256 §58; October 19, 2015).

20.10.300 Section R310.3 Amended; Bulkhead Enclosures.

Section R310.3 of the International Residential Code is amended to read as follows:

R310.3 Bulkhead enclosures. Bulkhead enclosures shall provide direct access only to furnace, water heater, and other mechanical, plumbing and electrical equipment. (Ord. 20256 §59; October 19, 2015).

20.10.305 Section R311.3.2 Amended; Floor Elevations for Other Exterior Doors.

Section R311.3.2 of the International Residential Code is amended to read as follows:

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 7 3/4 inches below the top of the threshold.

Exceptions:

1. Where a stairway of 4 or more risers is located on the exterior side of the door, other than the required exit door, a landing is required.

2. The height of floors at a garage utility door shall not be more than 7 3/4 inches lower than the top of the threshold. (Ord. 20256 §60; October 19, 2015).

20.10.310 Section R311.7 Amended; Stairways.

Section R311.7 of the International Residential Code is amended to read as follows:

R311.7 Stairways.

R311.7.1 Width. Stairways shall not be less than 36 inches in clear width at all points above the permitted handrail height and below the required headroom height. Handrails shall not project more than 4.5 inches on either side of the stairway and the minimum clear width of the stairway at and below the handrail height, including treads and landings, shall not be less than 31.5 inches where a handrail is installed on one side and 27 inches where handrails are provided on both sides.

Exceptions:

1. The width of spiral stairways shall be in accordance with Section R311.7.10.1.

2. Private stairways for lofts or attics may be 30 inches in width provided the minimum clear width at and below the railing shall not be less than 25 1/2 inches.

3. Stringers and other projections such as trim and similar decorative features may project into the required width 1 1/2 inches on each side.

R311.7.2 Headroom. The minimum headroom in all parts of the stairway shall not be less than 6 feet 8 inches measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.

Exception: When demonstrated to the Building Official there are practical difficulties in achieving 6 feet 8 inches headroom in existing construction, a minimum of 6 feet 6 inches headroom may be allowed.

R311.7.3 Vertical rise. A flight of stairs shall not have a vertical rise greater than 12 feet between floor levels or landings.

R311.7.4 Walkline. The walkline across winder treads shall be concentric to the curved direction of travel through the turn and located 12 inches from the side where the winders are narrower.

R311.7.5 Stair treads and risers.

R311.7.5.1 Risers. The maximum riser height shall be 7 ¾ inches and the minimum riser height shall be 4 inches. The riser shall be measured vertically between leading edges of the adjacent tread. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch. Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees from the vertical. Open risers are permitted between treads.

R311.7.5.2 Tread depth. The minimum tread depth shall be 10 inches unless at the discretion of the Building Official, it may be adjusted to accommodate existing conditions. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch. Winder treads shall have a minimum tread depth of 10 inches measured at a point 12 inches from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 7 inches at any point.

R311.7.5.3 Nosings. The radius of curvature at the nosing shall be no greater than 9/16 inch. A nosing not less than 3/4 inch but not more than 1 1/4 inches be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch between two stories, including the nosing at the level of floors and landings. Beveling of nosings shall not exceed 1/2 inch. Risers shall be vertical or sloped under the tread above from the underside of the nosing above at an angle not more than 30 degrees from the vertical. Open risers are permitted.

Exception: A nosing is not required where the tread depth is a minimum of 10 inches.

R311.7.4.4 Exterior wood/plastic composite stair treads. Wood/plastic composite stair treads shall comply with the provisions of Section R507.3.

R311.7.6 Landings for stairways. There shall be a floor or landing at the top and bottom of each stairway.

Exception 1: A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided a door does not swing over the stairs. A flight of stairs shall not have a vertical rise larger than 12 feet between floor levels or landings. The width of each landing shall not be less than the width of the stairway served. Every landing shall have a minimum dimension of 36 inches measured in the direction of travel.

Exception 2: The bottom of an exterior stair shall be supported by a concrete or stone pad that provides a minimum landing of 12 inches, the top of which is at grade level, and shall be the width of the stairs.

R311.7.7 Stairway walking surface. The walking surface of treads and landings of stairways shall be sloped no steeper than one unit vertical in 48 inches horizontal (2-percent slope).

R311.7.8 Handrails. Handrails shall be provided on at least one side of each continuous run of treads or flight with four or more risers. The handrail for circular, and winding stairs shall be located on the side where the tread is narrower.

R311.7.8.1 Height. Handrail height, measured vertically from the sloped plane adjoining the tread nosing, or finish surface of ramp slope, shall be not less than 34 inches and not more than 38 inches.

R311.7.8.2 Continuity. Handrails for stairways shall be continuous for the full length of the flight, from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrails adjacent to a wall shall have a space of not less than 1½ inch between the wall and the handrails.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at the turn.
2. The use of a volute, turnout, starting easing or starting newel shall be allowed over the lowest tread.
3. Handrails shall be permitted to be interrupted at the point where a stairway wall changes to an open guard.

R311.7.8.3 Grip-size. All required handrails shall be of one of the following types or provide equivalent graspability.

1. Type I. Handrails with a circular cross section shall have an outside diameter of at least 1 1/4 inches and not greater than 2 inches. If the handrail is not circular, it shall have a perimeter dimension of at least 4 inches and not greater than 6 1/4 inches with a maximum cross section of dimension of 2 1/4 inches. Edges shall have a minimum radius of 0.01 inch.
2. Type II. Handrails with a perimeter greater than 6 1/4 inches shall have a graspable finger recess area on both sides of the profile. The finger recess shall begin with a distance of 3/4 inch measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch within 7/8 inch to a level that is not less than 1 3/4 inches below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches to a maximum of 2 3/4 inches. Edges shall have a minimum radius of 0.01 inches.
3. Type III. Handrails for exterior stairs of an individual dwelling unit may consist of a 1 ½ inch x 3 ½ inch rail mounted in a horizontal position.

R311.7.9 Illumination. All stairs shall be provided with illumination in accordance with Section R303.6.

R311.7.10 Special stairways. Spiral stairways, winder stairways, circular stairways, and bulkhead enclosure stairways shall comply with all requirements of Section R311.7 except as specified below:

R311.7.10.1 Spiral stairways. Spiral stairways are permitted, provided the minimum width shall be 26 inches with each tread having a 7½-inches minimum tread depth at 12 inches from the narrower edge. All treads shall be identical, and the rise shall be no more than 9½ inches. A minimum headroom of 6 feet 6 inches shall be provided.

R311.7.10.2 Circular stairways. Circular and winding stairways shall have a tread depth at a point not more than 12 inches from the side where the treads are narrower of not less than 10 inches and the minimum depth of any tread shall not be less than 7 inches. The largest tread depth shall not exceed the smallest by more than 3/8 inch. (Ord. 20256 §61; October 19, 2015).

20.10.320 Section R312.1.1 Amended; Guards, Where Required.

Section R312.1.1 of the International Residential Code is amended to read as follows:

R312.1.1 Where required. Guards shall be located along open-sided walking surfaces, including stairs, ramp, landing, deck, porch, patio, driveway and sidewalks that are located more than 30 inches measured vertically to the floor or grade below.

A guard shall also be required when the drop off is more than 30 inches within 60 inches of the edge of the walking surface. The maximum slope of the grade from walking surface to the drop-off shall be 20% (12 inches). Insect screening shall not be considered as a guard. (Ord. 20256 §63; October 19, 2015).

20.10.325 Section R312.1.3 Amended; Guards, Opening Limitations.

Section R312.1.3 of the International Residential Code is amended to read as follows:

R312.1.3 Guard opening limitations. Required guards on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which do not allow passage of a sphere 5 inches or more in diameter.

Exceptions:

1. The triangular openings formed by the riser, tread and bottom rail of a guard at the open side of a stairway are permitted to be of such a size that a sphere 6 inches cannot pass through.
2. Guards on the open side of stairs shall not have openings which allow passage of a sphere 5 inches in diameter. (Ord. 20256 §64; October 19, 2015).

20.10.330 Section R313 Deleted; Automatic Fire Sprinkler Systems.

Section R313 of the International Residential Code and all subsections thereof are hereby deleted. (Ord. 20256 §65; October 19, 2015).

20.10.335 Section R314.3 Amended; Single- and Multiple-Station Smoke Alarms.

Section R314.3 of the International Residential Code is amended to read as follows:

R314.3 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in the following locations:

1. In each sleeping room; and
2. On each story of the dwelling, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

When more than one smoke alarm is required to be installed within an individual dwelling unit the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

All smoke alarms shall be listed and installed in accordance with the provisions of this code and the household fire warning equipment provisions of NFPA 72. (Ord. 20256 §66; October 19, 2015).

20.10.340 Section R314.4 Amended; Smoke Alarms; Power Source.

Section R314.4 of the International Residential Code is amended to read as follows:

R314.4 Power Source. Smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke alarms shall be interconnected.

Exceptions:

1. Smoke alarms shall be permitted to be battery operated when installed in buildings without commercial power.

2. Hard wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure. (Ord. 20256 §67; October 19, 2015).

20.10.345 Section R314.5 Amended; Smoke Alarms; Interconnection.

Section R314.5 of the International Residential Code is amended to read as follows:

R314.5 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of smoke alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure. (Ord. 20256 §68; October 19, 2015).

20.10.350 Section R315 Amended; Carbon Monoxide Alarms.

Section R315 of the International Residential Code is amended to read as follows:

SECTION R315
CARBON MONOXIDE ALARMS

315.1 Carbon monoxide alarms location. For new construction, additions, and interior alterations requiring a building permit that have an attached garage or fuel-fired appliances, one approved carbon monoxide alarm shall be installed on each floor and located in the immediate vicinity of the bedrooms.

R315.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions. A combination smoke alarm and carbon monoxide alarm is permitted. Carbon monoxide detectors are not required to be hardwired or interconnected. (Ord. 20256 §69; October 19, 2015).

20.10.355 Section 317.1 Amended; Protection of Wood and Wood Based Products Against Decay; Location Required.

Section R317.1 of the International Residential Code is amended to read as follows:

R317.1 Location required. Protection of wood and wood based products from decay shall be provided in the following locations by the use of naturally durable wood or wood that is preservative-treated in accordance with AWPA U1 for the species, product, preservative and end use. Preservatives shall be listed in Section 4 of AWPA U1.

1. Wood joists or the bottom of a wood structural floor when closer than 18 inches or wood girders when closer than 12 inches to the exposed ground in crawl spaces or unexcavated area located within the periphery of the building foundation.

2. All wood framing members that rest on concrete or masonry exterior foundation walls and are less than 8 inches from the exposed ground.

3. Sills and sleepers on a concrete or masonry slab that is in direct contact with the ground unless separated from such slab by an impervious moisture barrier.

4. The ends of wood girders entering exterior masonry or concrete walls having clearances of less than 1/2 inch on tops, sides and ends.

5. Wood siding, sheathing and wall framing on the exterior of a building having a clearance of less than 6 inches from the ground or less than 2 inches measured vertically from concrete steps, porch slabs, patio slabs, and similar horizontal surfaces exposed to the weather.

6 Wood structural members supporting moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, unless separated from such floors or roofs by an impervious moisture barrier.

7. Wood furring strips or other wood framing members attached directly to the interior of exterior masonry walls or concrete walls below grade.

8. Bottom sill plates for bearing walls cannot be imbedded in concrete. (Ord. 20256 §70; October 19, 2015).

20.10.360 Section R317.1.2 Deleted; Ground Contact.

Section R317.1.2 of the International Residential Code is hereby deleted. (Ord. 20256 §71; October 19, 2015).

20.10.365 Section R317.1.4 Amended; Wood Columns.

Section R317.1.4 of the International Residential Code is amended to read as follows:

R317.1.4 Wood columns. Wood columns shall be approved wood of natural decay resistance or approved pressure-preservative-treated wood. Posts, poles and columns supporting permanent structures shall bear upon a concrete footing and shall not be imbedded in the concrete or in the ground unless approved for such use.

Exceptions:

1. Columns exposed to the weather or in basements when supported by concrete piers or metal pedestals projecting 1 inch above a concrete floor or 6 inches above exposed earth and the earth is covered by an approved impervious moisture barrier.

2. Columns in enclosed crawl spaces or unexcavated areas located within the periphery of the building when supported by a concrete pier or metal pedestal at a height more than 8 inches from exposed earth and the earth is covered by an impervious moisture barrier. (Ord. 20256 §72; October 19, 2015).

20.10.370 Section R319 Amended; Premises Identification.

Section R319 of the International Residential Code is amended to read as follows:

R319 Premises identification. Approved numbers or addresses shall be provided for all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Premises shall have addresses provided on buildings as specified under Chapter 14.24 of the Lincoln Municipal Code. (Ord. 20256 §73; October 19, 2015).

20.10.375 Section R320 Deleted; Accessibility.

Section R320 of the International Residential Code is hereby deleted. (Ord. 20256 §74; October 19, 2015).

20.10.380 Section R322 Deleted; Flood-Resistant Construction.

Section R322 of the International Residential Code and all subsections thereof are hereby deleted. Lincoln Municipal Code Chapters 27.52 and 27.53 will apply. (Ord. 20256 §75; October 19, 2015).

20.10.385 Section R401.3 Amended; Foundations; Drainage.

R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard. Lots shall be graded to drain surface water away from foundation walls as per the approved grading and drainage plan. The grade from the foundation shall fall a minimum of 6 inches within the first 10 feet. The grade at the property line shall not be changed/altered.

Exception: Where lot lines, walls, slopes or other physical barriers prohibit 6 inches of fall within 10 feet, drains or swales shall be constructed to ensure drainage away from the structure. Impervious surfaces within 10 feet of the building foundation shall be sloped a minimum of 2 percent away from the building. (Ord. 20256 §76; October 19, 2015).

20.10.390 Table R401.4.1 Amended; Load Bearing Values.

Table R401.4.1 of the International Residential Code is amended to read as follows:

TABLE R401.4.1
PRESUMPTIVE LOAD-BEARING VALUES OF FOUNDATION MATERIALS[a]

CLASS OF MATERIAL	LOAD-BEARING PRESSURE (pounds per square foot)
Crystalline bedrock	12,000
Sedimentary and foliated rock	4,000
Sandy gravel and/or gravel (GW and GP)	3,000
Sand, silty sand, clayey sand, silty gravel and clayey gravel (SW, SP, SM, SC, GM and GC)	2,000
Clay, sandy clay, silty clay, clayey silt, silt and sandy silt (CL, ML, MH and CH)	2,000

For SI: 1 pound per square foot = 0.0479 kPa.

a. When soil tests are required by Section R401.4, the allowable bearing capacities of the soil shall be part of the recommendations.

(Ord. 20256 §77; October 19, 2015).

20.10.395 Section R403.1 Amended; Footings; General.

Section R403.1 of the International Residential Code is amended to read as follows:

R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill. Slabs and monolithic slabs shall not bear on new fill unless compacted. Concrete footings shall be designed and constructed in accordance with the provisions of Section R403 or in accordance with ACI 332. (Ord. 20256 §78; October 19, 2015).

20.10.400 Section R403.1.1 Amended; Footings, Minimum Size.

Section R403.1.1 of the International Residential Code is amended to read as follows:

R403.1.1 Minimum size. Minimum sizes for concrete and masonry footings shall be as set forth in Table R403.1 and Figure R403.1(1). The footing width, W, shall be based on the load-bearing value of the soil in accordance with Table R401.4.1. Spread footings shall be at least 8 inches thick. Footing projections, P, shall be at least 2 inches and shall not exceed the thickness of the footing. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2. (Ord. 20256 §79; October 19, 2015).

20.10.405 Table R403.1 Amended; Minimum Width of Footings.

Table R403.1 of the International Residential Code is amended to read as follows:

TABLE R403.1
MINIMUM WIDTH OF CONCRETE, PRECAST OR MASONRY FOOTINGS
(inches)[a]

	LOAD-BEARING VALUE OF SOIL (psf)
	2,000
Conventional light-frame construction	
1 supported floor	12
2 supported floors	16
3 supported floors	24
4-inch brick veneer over light frame or 8-inch hollow concrete masonry	
1 supported floor	12
2 supported floors	16
3 supported floors	24
8-inch solid or fully grouted masonry	
1 supported floor	12
2 supported floors	21
3 supported floors	32

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.0479 kPa.

a. Where minimum footing width is 12 inches, use of a single wythe of solid or fully grouted 12-inch nominal concrete masonry units is permitted.

(Ord. 20256 §80; October 19, 2015).

20.10.410 Figure R403.1(1) Amended; Minimum Footing Reinforcement.

Figure R403.1(1) of the International Residential Code is amended as shown on said figure at the end of this chapter. (Ord. 20256 §81; October 19, 2015).

20.10.415 Section R403.1.3.2 Amended; Slabs-on-Ground with Turned-Down Footings.

Section 403.1.3.2 of the International Residential Code is amended to read as follows:

R403.1.3.2 Slabs-on-ground with turned-down footings. Slabs-on-ground with turned-down footings shall have the minimum of one No. 4 bar at the top and the bottom of the footing. (Ord. 20256 §82; October 19, 2015).

20.10.420 Section R403.1.4.1 Amended; Frost Protection.

Section R403.1.4.1 of the International Residential Code is amended to read as follows:

R403.1.4.1 Frost protection. Foundation walls, piers and other permanent supports of buildings and structures shall extended below the frost line specified in Table R301.2.(1).

Exceptions:

1. Protection of freestanding accessory structures with an area of 400 square feet or less, of light-framed construction, with an eave height of 10 feet or less shall not be required.

2. Protection of freestanding accessory structures with an area of 500 square feet or less, of light-framed construction, with an eave height of 10 feet or less shall be allowed to be a monolithic slab as shown in Figure R403.1(1).

3. Decks less than 400 square feet not supported by a dwelling need not be provided with footings that extend below the frost line. (Ord. 20256 §83; October 19, 2015).

20.10.425 Section R403.1.6 Amended; Foundation Anchorage.

Section R403.1.6 of the International Residential Code is amended to read as follows:

R403.1.6 Foundation anchorage. When braced wall panels are supported directly on continuous foundations, the wall wood sill plate or cold-formed steel bottom track shall be anchored to the foundation in accordance with this section.

The wood sole plate at exterior walls on monolithic slabs and wood sill plate shall be anchored to the foundation with anchor bolts spaced a maximum of 6 feet on center. There shall be a minimum of two bolts per plate section with one bolt located not more than 12 inches or less than seven bolt diameters from each end of the plate section. In Seismic Design Categories D_0, D_1 and D_2, anchor bolts shall be spaced at 6 feet on center and located within 12 inches of the ends of each plate section at interior braced wall lines when required by Section R602.10.9 to be supported on a continuous foundation. Bolts shall be at least 1/2 inch in diameter and shall extend a minimum of 7 inches into masonry or concrete. Interior bearing wall sole plates on monolithic slab foundation shall be positively anchored with approved fasteners. A nut and washer shall be tightened on each bolt of the plate. Sills and sole plates shall be protected against decay and termites where required by Sections R318. Cold-formed steel framing systems shall be fastened to the wood sill plates or anchored directly to the foundation as required in Section R505.3.1.

Exceptions:

1. Foundation anchorage, spaced as required to provide equivalent anchorage to 1/2-inch-diameter anchor bolts. "Y" foundation anchor straps are not equivalent.

2. Walls 24 inches total length or shorter connecting offset braced wall panels shall be anchored to the foundation with a minimum of one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels per Figure R602.12.5 at corners.

3. Walls 12 inches total length or shorter connecting offset braced wall panels shall be permitted to be connected to the foundation without anchor bolts. (Ord. 20256 §85; October 19, 2015).

20.10.430 Section R403.1.7.3 Amended; Foundation Elevation.

Section R403.1.7.3 of the International Residential Code is amended to read as follows:

R403.1.7.3 Foundation elevation. On graded sites, the top of all exterior foundation walls shall be a minimum of 12 inches higher than the finish grade elevation 10 feet from the perimeter of the foundation. The floor of a walkout basement shall be a minimum of 12 inches higher than the grade 10 feet from the foundation. The top of the foundation wall below a daylight window shall be a minimum of 12 inches higher than the finish grade elevation, 10 feet from the perimeter of the foundation. Alternate elevations are permitted subject to the approval of the Building Official, provided it can be demonstrated that required drainage to the point of discharge and away from the structure is provided at all locations on the site. (Ord. 20256 §85; October 19, 2015).

20.10.435 Section R403.3 and Subsections, Tables and Figures Deleted; Frost Protected Shallow Foundations.

Section R403.3 of the International Residential Code and all subsections, tables, and figures under said Section R403.3 are hereby deleted. (Ord. 20256 §86; October 19, 2015).

20.10.440 Section R403.4.1 Deleted; Crushed Stone Footings.

Section 403.4.1 of the International Residential Code is hereby deleted. (Ord. 20256 §87; October 19, 2015).

20.10.445 Table R403.4 Deleted; Minimum Depth of Crushed Stone Footings.

Table 403.4 of the International Residential Code is hereby deleted. (Ord. 20256 §88; October 19, 2015).

20.10.450 Table R404.1.1(1) Deleted; Plain Masonry Foundation Walls.

Table R401.1(1) Of the International Residential Code is hereby deleted. (Ord. 20256 §89; October 19, 2015).

20.10.455 Figure R404.1.1(3) Added; Permanent Masonry Foundation Basement Wall Section.

Figure R404.1.1(3) is added to the International Residential Code as shown on said figure at the end of this chapter. –(Ord. 20256 §90; October 19, 2015).

20.10.460 Table R404.1.2 (1) Deleted; Minimum Horizontal Reinforcement for Concrete Basement Walls.

Table R404.1.2(1) of the International Residential Code is hereby deleted. (Ord. 20256 §91; October 19, 2015).

20.10.465 Table R404.1.2(2) Deleted; Minimum Vertical Reinforcement for 6-inch Nominal Flat Concrete Basement Walls.

Table R404.1.2 (2) of the International Residential Code is hereby deleted. (Ord. 20256 §92; October 19, 2015).

20.10.470 Table R404.1.2(3) Deleted; Minimum Vertical Reinforcement for 8-inch Nominal Flat Concrete Basement Walls.

Table R404.1.2(3) of the International Residential Code is hereby deleted. (Ord. 20256 §93; October 19, 2015).

20.10.475 Table R404.1.2(4) Deleted; Minimum Vertical Reinforcement for 10-inch Nominal Flat Concrete Basement Walls.

Table R404.1.2(4) of the International Residential Code is hereby deleted. (Ord. 20256 §94; October 19, 2015).

20.10.480 Table R404.1.2(8) Deleted; Minimum Vertical Reinforcement for 6-, 8-, 10-inch and 12-inch Nominal Flat Basement Walls.

Table R404.1.2(8) of the International Residential Code is hereby deleted. (Ord. 20256 §95; October 19, 2015).

20.10.485 Table R404.1.2(9) Deleted; Minimum Spacing for Alternate Bar Size and/or Alternate Grade of Steel.

Table R404.1.2(9) of the International Residential Code is hereby deleted. (Ord. 20256 §96; October 19, 2015).

20.10.490 Section R404.1.2.2 Amended; Reinforcement for Foundation Walls.

Section R404.1.2.2 of the International Residential Code is amended to read as follows:

R404.1.2.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top and bottom and vertical reinforcement shall be provided in accordance with Figures R404.1.2.2(1) and R404.1.2.2(2). (Ord. 20256 §97; October 19, 2015).

20.10.495 Figures R404.1.2.2(1) and R404.1.2.2(2) Added; Reinforcement for Foundation Walls.

Figure R404.1.2.2(1) and Figure R404.1.2.2(2) are added to the International Residential Code as shown on said figures at the end of this chapter per 2012 code review. (Ord. 20256 §98; October 19, 2015).

20.10.500 Figure R404.1.2.2.1 Added; Deadman/4 foot Concrete Wall.

Figure R404.1.2.2.1 is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §99; October 19, 2015).

20.10.505 Section R404.1.5.2 Amended; Concrete Wall Thickness.

Section R404.1.5.2 of the International Residential Code is amended to read as follows:

R404.1.5.2 Concrete wall thickness. The thickness of concrete foundation walls shall be equal to or greater than the thickness of the wall in the story above. Concrete foundation walls with corbels, brackets or other projections built into the wall for support of masonry veneer or other purposes are not within the scope of the tables in this section.

Where a concrete foundation wall is reduced in thickness to provide a 4-inch shelf for the support of masonry veneer or a bearing ledge for joists, the reduced thickness of the wall shall not be less than 6 inches. Vertical reinforcement shall be based on the thickness of the thinner portion of the wall.

Exception: Where the height of the reduced thickness portion measured to the underside of the floor assembly or sill plate above is less than or equal to 24 inches and the reduction in thickness does not exceed 4 inches, the vertical reinforcement is permitted to be based on the thicker portion of the wall. (Ord. 20256 §100; October 19, 2015).

20.10.510 Figure R404.1.5.2 Added; Garage Stub Wall Foundation Detail.

Figure R404.1.5.2 is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §101; October 19, 2015).

20.10.515 Section R408.7 Deleted; Flood Resistance.

Section R408.7 of the International Residential Code is hereby deleted. (Ord. 20256 §102; October 19, 2015).

20.10.520 Section R501.3 Deleted; Fire Protection of Floors.

Section R501.3 of the International Residential Code is hereby deleted. (Ord. 20256 §103; October 19, 2015).

20.10.525 Section R502.2.3 Amended; Deck Lateral Load Connection.

Section R502.2.3 of the International Residential Code is amended to read as follows:

R502.2.2.3 Deck lateral load connection. The lateral load connection required by Section R502.2.2 shall be permitted to be in accordance with Figure R502.2.2.3. Hold-down tension devices shall be installed in not less than two locations per deck, and each device shall have an allowable stress design capacity of not less than 1,500 pounds.

Exception: Hold down tension devices shall not be required when a 2x4 diagonal brace is installed on the underside of the floor joist, tying all joists together, including the ledger. (Ord. 20256 §104; October 19, 2015).

20.10.530 Section R502.3 Amended; Allowable Joist Spans.

Section R502.3 of the International Residential Code is amended to read as follows:

R502.3 Allowable joist spans. Spans for floor joists shall be in accordance with Table R502.3.1(2). For other grades and species and for other loading conditions, refer to the AF&PA Span Tables for Joists and Rafters.

R502.3.1 Sleeping areas and attic joists; Deleted.

R502.3.2 Other floor joists; Deleted.

R502.3.3 Floor cantilevers; Deleted.

Table R502.3.1(1) Floor Joist Spans for Common Lumber Species, 30 psf; Deleted.

Table R502.3.3(1) Cantilever Spans for Floor Joists Supporting Light-Frame Exterior Bearing Wall and Roof Only; Deleted.

Table R502.3.3(2) Cantilever Spans for Floor Joists Supporting Exterior Balcony; Deleted. (Ord. 20256 §105; October 19, 2015).

20.10.535 Section R502.7 Amended; Lateral Restraint at Supports.

Section R502.7 of the International Residential Code is amended to read as follows:

R502.7 Lateral restraint at supports. Joists shall be supported laterally at the ends by full-depth solid blocking not less than 2 inches nominal in thickness; or by attachment to a header, band, or rim joist, or to an adjoining stud, or the floor sheathing and interior bearing partitions; or shall be otherwise provided with lateral support to prevent rotation.

Exception: Trusses, structural composite lumber, structural glued-laminated members and I-joists shall be supported laterally as required by the manufacturer's recommendations.

R502.7.1 Bridging. Joists exceeding a nominal 2 by 8 inches shall be supported laterally by solid blocking, diagonal bridging (wood or metal), or a continuous 1-inch-by-3-inch strip nailed across the bottom of the joists perpendicular to joists at intervals not to exceed 8 feet. Dimensional lumber shall be supported laterally by solid blocking, diagonal bridging (wood or metal), or a continuous 1-inch-by-3-inch strip nailed across the bottom of joists perpendicular to joists at intervals not exceeding 8 feet.

Exception: Trusses, structural composite lumber, structural glued-laminated members and I-joists shall be supported laterally as required by the manufacturer's recommendations. (Ord. 20256 §106; October 19, 2015).

20.10.540 Section R502.10 Amended; Framing of Openings.

Section R502.10 of the International Residential Code is amended to read as follows:

R502.10 Framing of openings. Openings in floor framing shall be framed with a header and trimmer joists. When the header joist span does not exceed 4 feet, the header joist may be a single member the same size as the floor joist. Single trimmer joists may be used to carry a single header joist that is located within 3 feet of the trimmer joist bearing. When the header joist span exceeds 4 feet, the trimmer joists and the header joist shall be doubled and of sufficient cross section to support the floor joists framing into the header. Approved hangers shall be used for the header joist to trimmer joist connection. Tail joists over 12 feet long shall be supported at the header by framing anchors or on ledger strips not less than 2 inches by 2 inches. (Ord. 20256 §107; October 19, 2015).

20.10.545 Table R602.3(1) Amended; Fastener Schedule for Structural Members.

Table R602.3(1) of the International Residential Code is amended as follows:

TABLE R602.3(1)

FASTENER SCHEDULE FOR STRUCTURAL MEMBERS

ITEM	DESCRIPTION OF BUILDING ELEMENTS	NUMBER AND TYPE OF FASTENER[a, b, c]	SPACING OF FASTENERS
	Roof		
1	Blocking between joists or rafters to top plate, toe nail	3-8d ($2^1/_2$" × 0.113")	—
2	Ceiling joists to plate, toe nail	3-8d ($2^1/_2$" × 0.113")	—
3	Ceiling joists not attached to parallel rafter, laps over partitions, face nail	3-10d	—
4	Collar tie to rafter, face nail or $1^1/_4$" × 20 gage ridge strap	3-10d (3" × 0.128")	—
5	Rafter to plate, toe nail	3-16d box nails ($3^1/_2$" × 0.135") or 3-10d common nails (3" × 0.148")	4 toe nails on one side and 1 toe nail on opposite side of each rafter or truss[j]

ITEM	DESCRIPTION OF BUILDING ELEMENTS	NUMBER AND TYPE OF FASTENER[a, b, c]	SPACING OF FASTENERS
6	Roof rafters to ridge, valley or hip rafters: toe nail face nail	4-16d ($3^1/_2$" × 0.135") 3-16d ($3^1/_2$" × 0.135")	—
	Wall		
7	Built-up studs-face nail	10d (3" × 0.128")	24" o.c.
8	Abutting studs at intersecting wall corners, face nail	16d ($3^1/_2$" × 0.135")	12" o.c.
9	Built-up header, two pieces with $^1/_2$" spacer	16d ($3^1/_2$" × 0.135")	16" o.c. along each edge
10	Continued header, two pieces	16d ($3^1/_2$" × 0.135")	16" o.c. along each edge
11	Continuous header to stud, toe nail	4-8d ($2^1/_2$" × 0.113")	—
12	Double studs, face nail	10d (3" × 0.128")	24" o.c.
13	Double top plates, face nail	10d (3" × 0.128")	24" o.c.
14	Double top plates, minimum 24-inch offset of end joints, face nail in lapped area	8-16d ($3^1/_2$" × 0.135")	—
15	Sole plate to joist or blocking, face nail	16d ($3^1/_2$" × 0.135")	16" o.c.
16	Sole plate to joist or blocking at braced wall panels	3-16d ($3^1/_2$" × 0.135")	16" o.c.
17	Stud to sole plate, toe nail	3-8d ($2^1/_2$" × 0.113") or 2-16d ($3^1/_2$" × 0.135")	—
18	Top or sole plate to stud, end nail	2-16d ($3^1/_2$" × 0.135")	—
19	Top plates, laps at corners and intersections, face nail	2-10d (3" × 0.128")	—
20	1" brace to each stud and plate, face nail	2-8d ($2^1/_2$" × 0.113") 2 staples 1 $^3/_4$" ×	—
21	1" × 6" sheathing to each bearing, face nail	2-8d ($2^1/_2$" × 0.113") 2 staples 1 $^3/_4$"	—
22	1" × 8" sheathing to each bearing, face nail	2-8d ($2^1/_2$" × 0.113") 3 staples 1 $^3/_4$	—
23	Wider than 1" × 8" sheathing to each bearing, face nail	3-8d ($2^1/_2$" × 0.113") 4 staples $1^3/_4$"	—
	Floor		
24	Joist to sill or girder, toe nail	3-8d ($2^1/_2$" × 0.113")	—
25	Rim joist to top plate, toe nail (roof applications also)	8d ($2^1/_2$" × 0.113")	6" o.c.
26	Rim joist or blocking to sill plate, toe nail	8d ($2^1/_2$" × 0.113")	6" o.c.
27	1" × 6" subfloor or less to each joist, face nail	2-8d ($2^1/_2$" × 0.113") 2 staples $1^3/_4$"	— —
28	2" subfloor to joist or girder, blind and face nail	2-16d ($3^1/_2$" × 0.135")	—
29	2" planks (plank & beam - floor & roof)	2-16d ($3^1/_2$" × 0.135")	at each bearing

ITEM	DESCRIPTION OF BUILDING ELEMENTS	NUMBER AND TYPE OF FASTENER[a, b, c]	SPACING OF FASTENERS
30	Built-up girders and beams, 2-inch lumber layers	10d (3" × 0.128")	Nail each layer as follows: 32" o.c. at top and bottom and staggered. Two nails at ends and at each splice.
31	Ledger strip supporting joists or rafters	3-16d ($3^1/_2$" × 0.135")	At each joist or rafter

ITEM	DESCRIPTION OF BUILDING MATERIALS	DESCRIPTION OF FASTENER[b, c, e]	SPACING OF FASTENERS	
			Edges (inches)[i]	Intermediate supports[c, e] (inches)
Wood structural panels, subfloor, roof and interior wall sheathing to framing and particleboard wall sheathing to framing				
32	$^3/_8$" - $^1/_2$"	6d common (2" × 0.113") nail (subfloor wall)[j] 8d common ($2^1/_2$" × 0.131") nail (roof)[f]	6	12[g]
33	$^{19}/_{32}$" - 1"	8d common nail ($2^1/_2$" × 0.131")	6	12[g]
34	$1^1/_8$" - $1^1/_4$"	10d common (3" × 0.148") nail or 8d ($2^1/_2$" × 0.131") deformed nail	6	12
Other wall sheathing[h]				
35	$^1/_2$" structural cellulosic fiberboard sheathing	$1^1/_2$" galvanized roofing nail, $^7/_{16}$" crown or 1" crown staple 16 ga., $1^1/_4$" long	3	6
36	$^{25}/_{32}$" structural cellulosic fiberboard sheathing	$1^3/_4$" galvanized roofing nail, $^7/_{16}$" crown or 1" crown staple 16 ga., $1^1/_2$" long	3	6
37	$^1/_2$" gypsum sheathing[d]	$1^1/_2$" galvanized roofing nail; staple galvanized, $1^1/_2$" long; $1^1/_4$ screws, Type W or S	7	7
38	$^5/_8$" gypsum sheathing[d]	$1^3/_4$" galvanized roofing nail; staple galvanized, $1^5/_8$" long; $1^5/_8$" screws, Type W or S	7	7
	Wood structural panels, combination subfloor underlayment to framing			
39	$^3/_4$" and less	6d deformed (2" × 0.120") nail or 8d common ($2^1/_2$" × 0.131") nail	6	12
40	$^7/_8$" - 1"	8d common ($2^1/_2$" × 0.131") nail or 8d deformed ($2^1/_2$" × 0.120") nail	6	12

ITEM	DESCRIPTION OF BUILDING MATERIALS	DESCRIPTION OF FASTENER[b, c, e]	SPACING OF FASTENERS	
			Edges (inches)[i]	Intermediate supports[c, e] (inches)
41	$1^1/_8$" - $1^1/_4$"	10d common (3" × 0.148") nail or 8d deformed ($2^1/_2$" × 0.120") nail	6	12

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 mile per hour = 0.447 m/s; 1 Ksi = 6.895 MPa.

a. All nails are smooth-common, box or deformed shanks except where otherwise stated. Nails used for framing and sheathing connections shall have minimum average bending yield strengths as shown: 80 ksi for shank diameter of 0.192 inch (20d common nail), 90 ksi for shank diameters larger than 0.142 inch but not larger than 0.177 inch, and 100 ksi for shank diameters of 0.142 inch or less.

b. Staples are 16 gage wire and have a minimum $^7/_{16}$-inch on diameter crown width.

c. Nails shall be spaced at not more than 6 inches on center at all supports where spans are 48 inches or greater.

d. Four-foot by 8-foot or 4-foot by 9-foot panels shall be applied vertically.

e. Spacing of fasteners not included in this table shall be based on Table R602.3(2).

f. For regions having basic wind speed of 110 mph or greater, 8d deformed ($2^1/_2$" × 0.120) nails shall be used for attaching plywood and wood structural panel roof sheathing to framing within minimum 48-inch distance from gable end walls, if mean roof height is more than 25 feet, up to 35 feet maximum.

g. For regions having basic wind speed of 100 mph or less, nails for attaching wood structural panel roof sheathing to gable end wall framing shall be spaced 6 inches on center. When basic wind speed is greater than 100 mph, nails for attaching panel roof sheathing to intermediate supports shall be spaced 6 inches on center for minimum 48-inch distance from ridges, eaves and gable end walls; and 4 inches on center to gable end wall framing.

h. Gypsum sheathing shall conform to ASTM C 1396 and shall be installed in accordance with GA 253. Fiberboard sheathing shall conform to ASTM C 208.

i. Spacing of fasteners on floor sheathing panel edges applies to panel edges supported by framing members and required blocking and at all floor perimeters only. Spacing of fasteners on roof sheathing panel edges applies to panel edges supported by framing members and required blocking. Blocking of roof or floor sheathing panel edges perpendicular to the framing members need not be provided except as required by other provisions of this code. Floor perimeter shall be supported by framing members or solid blocking.

j. Where a rafter is fastened to an adjacent parallel ceiling joist in accordance with this schedule, provide two toe nails on one side of the rafter and toe nails from the ceiling joist to top plate in accordance with this schedule. The toe nail on the opposite side of the rafter shall not be required.

(Ord. 20256 §108; October 19, 2015).

20.10.550 Figure R602.10.3.5 Added; Alternate Braced Wall Panel at Garage Door Openings.

Figure R602.10.3.5 is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §109; October 19, 2015).

20.10.555 Figure R602.10.4 Added; Braced Walls Using Continuous OSB Sheathing.

Figure R602.10.3.5 is added to the International Residential Code as shown on said figure at the end of this chapter. (Ord. 20256 §110; October 19, 2015).

20.10.560 Section R702.7 Amended; Vapor Retarders.

Section R702.7 of the International Residential Code is amended to read as follows:

R702.7 Vapor retarders. Class I or II vapor retarders are not permitted on the interior side of exterior walls. (Ord. 20256 §111; October 19, 2015).

20.10.565 Section R703.1 Amended; Exterior Covering; General.

Section R703.1 of the International Residential Code is amended to read as follows:

R703.1 General. To promote building durability, exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section R703.8. The envelope shall provide proper integration of flashings with the WRB and the exterior veneer. These components, in conjunction, shall provide a means of draining water that enters the assembly to the exterior.

Exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section R703.8. The exterior wall envelope shall be designed and constructed in such a manner as to prevent the accumulation of water within the wall assembly by providing a water-resistive barrier behind the exterior veneer as required by Section R703.2.

Any deteriorated or rotting veneer shall be removed prior to installing new veneer. An approved weather barrier shall be installed prior to overlaying with a new veneer product. (Ord. 20256 §112; October 19, 2015).

20.10.570 Section R703.2 Amended; Water Resistive Barrier.

Section R703.2 of the International Residential Code is amended to read as follows:

R703.2 Water-resistive barrier. One layer of water-resistive barrier, (WRB) free from holes, complying with ASTM E2556 for type II WRB shall be applied over sheathing of all exterior walls. Such WRB shall be applied horizontally, with the upper layer lapped over the lower layer not less than 2 inches. Where vertical joints occur, the WRB shall be lapped not less than 6 inches. The WRB shall be continuous to the top of walls and terminated at penetrations and building appendages in a manner to meet the requirements of the exterior wall envelope as described in Section R703.1.

Manufactured and natural adhered masonry veneer and stucco shall be installed over an approved rain screen (drainage system) that has a minimum depth of 1/8 inch. The 1/8 inch space shall be formed by the use of any non-corrodible furring strip, drainage mat or drainage board. A water-resistant barrier shall be installed between the rain screen and the wall sheathing. Flashing shall be installed in accordance with Section R703.8. No. 15 asphalt shall not be permitted as a water-resistant barrier for adhered veneer and stucco.

Exceptions:

1. A space is not required where the exterior veneer is installed with a second WRB complying with Section R703.2 which is manufactured in a manner to enhance drainage and meets the 75% efficiency drainage requirement of ASTM E2273, ICC-ES, AC24, ICC-ES, AC235 or other recognized national standards and is installed over a WRB complying with Section 703.2.
2. The water-resistive barrier for detached accessory buildings less than 120 square foot is not required. (Ord. 20256 §113; October 19, 2015).

20.10.575 Section R703.6.3 Amended; Water-Resistive Barriers.

Section R703.6.3 of the International Residential Code is amended to read as follows:

R703.6.3 Water-resistive barriers. A water-resistive barrier shall be installed as required in Section R703.2 with an approved rain screen (drainage system) that has either a minimum depth of 1/8 inch or has an average minimum drainage efficiency of 90 percent when tested in accordance with ASTM E 2271. The WRB shall be installed between the rain screen and the wall sheathing. Flashing shall be installed in accordance with Section R703.8. No. 15 asphalt shall not be permitted as a water-resistant barrier. (Ord. 20256 §114; October 19, 2015).

20.10.580 Table R703.7.3.1 Deleted; Allowable Spans for Lintels Supporting Masonry Veneer.

Table R703.7.3.1 of the International Residential Code is hereby deleted. (Ord. 20256 §115; October 19, 2015).

20.10.585 Section R703.7.3 Deleted; Lintels.

Section R703.7.3 of the International Residential Code is hereby deleted. (Ord. 20256 §116; October 19, 2015).

20.10.590 Section R703.7.4 Amended; Anchorage.

Section R703.7.4 of the International Residential Code is amended to read as follows:

R703.7.4 Anchors, supports and ties shall be noncombustible and corrosion resistant. When the terms "corrosion resistant" or "noncorrosive" are used in this section, they shall mean having a corrosion resistance equal to or greater than a hot-dipped galvanized coating of 1.5 ounces of zinc per square foot of surface area. When an element is required to be corrosive resistant or noncorrosive, all of its parts, such as screws, nails, wire, dowels, bolts, nuts, washers, shims, anchors, ties and attachments, shall be corrosion resistant. (Ord. 20256 §117; October 19, 2015).

20.10.595 Section R703.7.4.2 Deleted; Air Space.

Section R703.4.2 of the International Residential Code is hereby deleted. (Ord. 20256 §118; October 19, 2015).

20.10.600 Figure R703.7 Deleted; Masonry Veneer Wall Details.

Figure R703.7 of the International Residential Code is hereby deleted. (Ord. 20256 §119; October 19, 2015).

20.10.605 Section R703.7.5 Amended; Flashing.

Section R703.7.5 of the International Residential Code is amended to read as follows:

R703.7.5 Flashing. Flashing shall be located beneath the first course of masonry above finished ground level above the foundation wall or slab and at other points of support, including structural floors, shelf angles and lintels when masonry veneers are designed in accordance with Section R703.7. See Section R703.8 for additional requirements.

Exception: The requirements of R703.7.5 may be deleted if a poured concrete foundation is used with a minimum 8-inch brickledge drop and all exterior window and door openings are caulked with sealant. (Ord. 20256 §120; October 19, 2015).

20.10.610 Section R703.7.6 Amended; Weepholes.

Section R703.7.6 of the International Residential Code is amended to read as follows:

R703.7.6 Weepholes. Weepholes shall be provided in the outside wythe of masonry walls at a maximum spacing of 33 inches on center. Weepholes shall not be less than 3 /16 inch in diameter. Weepholes shall be located immediately above the flashing.

Exception: The requirements of R703.7.6 may be deleted if a poured concrete foundation is used with a minimum 8-inch brickledge drop and all exterior window and door openings are flashed per 703.8 amended. (Ord. 20256 §121; October 19, 2015).

20.10.615 Section R703.8 Amended; Flashing.

Section R703.8 of the International Residential Code is amended to read as follows:

R703.8 Flashing. Approved corrosion-resistive flashing shall be provided in the exterior wall envelope in such a manner as to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. The flashing shall extend to the surface of the exterior wall finish and shall be installed to prevent water from reentering the exterior wall envelope. Approved corrosion-resistant flashings shall be installed at all of the following locations:

1. At top of all exterior window and door openings in such a manner as to be leakproof.
2. At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.
3. Under and at the ends of masonry, copings and sills.
4. Continuously above all projecting wood or composite trim.

5. Where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction.

6. At wall and roof intersections.

7. At built-in gutters.

Exceptions:

1. The requirements of subparagraph 3 above may be deleted if a poured concrete foundation is used with a minimum 8-inch brickledge drop.

2. The requirements of subparagraph 3 above may be deleted where soffits serve as protection for the upper course of brick veneer. (Ord. 20256 §122; October 19, 2015).

20.10.620 Section R703.9.2.1 Amended; Water-Resistive Barrier.

Section R703.9.2.1 of the International Residential Code is amended to read as follows:

R703.9.2.1 The water-resistive barrier shall comply with Section R703.2 or ASTM E 2570. No. 15 asphalt shall not be permitted as a water-resistive barrier. (Ord. 20256 §123; October 19, 2015).

20.10.625 Section R703.9.2.2 Amended; Installation.

Section R703.9.2.2 of the International Residential Code is amended to read as follows:

R703.9.2.2 Installation: The water-resistive barrier shall be applied between the drainage system and the wall sheathing as per 703.6.3. (Ord. 20256 §124; October 19, 2015).

20.10.630 Section R703.12.1 Amended; Adhered Masonry Veneer; Clearances.

Section R703.12.1 of the International Residential Code is hereby amended to read as follows:

R703.12.1 Clearances.

1. The minimum clearance from the adhered masonry to a concrete stoop is 1/2 inch.

2. The minimum clearance from the rain screen flashing at the bottom of adhered masonry to a sidewalk or driveway is 1/2 inch. A 1 1/2 inch thick expansion joint is required between the foundation and the sidewalk or driveway. The stone veneer on the bottom 6 inches shall not project beyond the edge of the sidewalk or driveway.

3. The minimum clearance from the rain screen flashing at the bottom of the adhered masonry to grade shall be 1 1/2 inch.

4. The adhered masonry at the top of the rain screen shall provide a minimum of 1/4 inch opening to the soffit to vent the rain screen. (Ord. 20256 §125; October 19, 2015).

20.10.635 Section R703.12.3 Added; Adhered Masonry Veneer; Water-Resistive Barrier.

Section R703.12.3 is added to the International Residential Code to read as follows:

R703.12.1 Water-resistive barrier. A water-resistive vapor-permeable barrier complying with ASTM E2556 for Type II water-resistive barrier shall be installed as required in Section R703.2 with an approved rain screen (drainage system) that has either a minimum depth of 1/8 inch or has an average minimum drainage efficiency of 90 percent when tested in accordance with ASTM E 2273. The WRB shall be installed between the rain screen and the wall sheathing. Flashing shall be installed in accordance with Section R703.8. No. 15 asphalt shall not be permitted as a water-resistant barrier. (Ord. 20256 §126; October 19, 2015).

20.10.640 Section R802.3 Amended; Framing Details.

Section R802.3 of the International Residential Code is amended to read as follows:

R802.3 Framing details. Rafters shall be framed to ridge board or to each other with a gusset plate as a tie. Ridge board shall be at least 1-inch nominal thickness and not less in depth than the cut end of the rafter. At all valleys and hips there shall be a valley or hip rafter not less than 2-inch nominal thickness and not less in depth than the cut end of the rafter. Hip and valley rafters shall be supported at the ridge by a brace to a bearing partition or be designed to carry and distribute the specific load at that point. Where the roof pitch is less than three units vertical in 12 units horizontal (25-percent slope), structural members that support rafters and ceiling joists, such as ridge beams, hips and valleys, shall be designed as beams.

A roof that is over framed on a lower roof shall bear on a ledger board. The ledger board shall be a minimum of 2x6 inches and shall be located on the inside of the heel cut. On existing roofs the roof covering shall be removed to allow the ledger board to bear on the roof sheathing and rafters. The framed roof shall comply with R802.11. (Ord. 20256 §127; October 19, 2015).

20.10.645 Section R802.11.1 Amended; Roof Tie-Down; Uplift Resistance.

Section R802.11.1 of the International Residential Code is amended to read as follows:

R802.11.1 Uplift resistance. Roof assemblies shall have uplift resistance in accordance with Sections R802.11.1.2 and R802.11.1.3.

Where the uplift force does not exceed 200 pounds, rafters spaced not more than 24 inches on center shall be permitted to be attached to their supporting wall assemblies in accordance with Table R602.3(1).

Where the basic wind speed does not exceed 90 mph, the wind exposure category is B, the roof pitch is 5:12 or greater, and the roof space in 32 feet or less, rafters spaced not more than 24 inches on center shall be permitted to be attached to their supporting wall assemblies in accordance with Table R602.3(1). (Ord. 20256 §128; October 19, 2015).

20.10.650 Section R802.11.1.2 Amended; Roof Tie-Down; Truss Uplift Resistance.

Section R802.11.1.2 of the International Residential Code is amended to read as follows:

R802.11.1.2 Truss uplift resistance. Trusses shall be attached to supporting wall assemblies by metal strap connections capable of resisting uplift forces as specified on the truss design drawings. Uplift forces shall be permitted to be determined as specified by Table R802.11, if applicable, or as determined by accepted engineering practice. (Ord. 20256 §129; October 19, 2015).

20.10.655 Section R806.5 Amended; Unvented Attic and Unvented Enclosed Rafter Assemblies.

Section R806.5 of the International Residential Code is amended to read as follows:

R806.5 Unvented attic and unvented enclosed rafter assemblies. Unvented attic assemblies (spaces between the ceiling joists of the top story and the roof rafters) and unvented enclosed rafter assemblies (spaces between ceilings that are applied directly to the underside of roof framing members/rafters and the structural roof sheathing at the top of the roof framing members/ rafters) shall be permitted if all the following conditions are met:

1. The unvented attic space is completely contained within the building thermal envelope.
2. No interior Class I vapor retarders or Kraft face batt insulation are installed on the ceiling side (attic floor) of the unvented attic assembly or on the ceiling side of the unvented enclosed rafter assembly.
3. Where wood shingles or shakes are used, a minimum 1/4-inch vented air space separates the shingles or shakes and the roofing underlayment above the structural sheathing.
4. In Climate Zones 5, 6, 7 and 8, any air-impermeable insulation shall be a Class II vapor retarder, excluding Kraft face batt insulation, or shall have a Class III vapor retarder coating or covering in direct contact with the underside of the insulation.
5. Either Items 5.1, 5.2 or 5.3 shall be met, depending on the air permeability of the insulation directly under the structural roof sheathing.
    - 5.1. Air-impermeable insulation only. Insulation shall be applied in direct contact with the underside of the structural roof sheathing.
    - 5.2. Air-permeable insulation only. In addition to the air-permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing as specified in Table R806.5 for condensation control.
        - 5.2.1 Allow for a solidly filled cavity with insulation with a breathable vapor barrier on the ceiling side with a minimum R-value per current code for a roof.
    - 5.3. Air-impermeable and air-permeable insulation. The air-impermeable insulation shall be applied in direct contact with the underside of the structural roof sheathing as specified in Table R806.5 for condensation control. The air-permeable insulation shall be installed directly under the air-impermeable insulation.

5.4. Where preformed insulation board is used as the air-impermeable insulation layer, it shall be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

TABLE R806.5 INSULATION FOR CONDENSATION CONTROL

CLIMATE ZONE	MINIMUM RIGID BOARD ON AIR-IMPERMEABLE INSULATION R-VALUE[a]
5	R-20

[a] Contributes to but does not supersede the requirements in Section N1103.2.1

(Ord. 20256 §130; October 19, 2015).

20.10.660 Section R905.2.7.1 Amended; Ice Barrier.

Section R905.2.7.1 of the International Residential Code is amended to read as follows:

R905.2.7.1 Ice barrier; conditioned floor area. In areas where there has been a history of ice forming along the eaves causing a backup of water as designated in Table R301.2(1), an ice barrier that consists of a least two layers of underlayment cemented together or of a self-adhering polymer modified bitumen sheet or other method approved by the Building Official, shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to at least 36 inches.

Exceptions:

1. The ice barrier may be omitted when a raised heel truss or other framing method provides space for a minimum of R-38 attic insulation along the exterior wall.
2. The ice barrier may be omitted for attached garages and detached accessory structures that contain no conditioned floor area. (Ord. 20256 §131; October 19, 2015).

20.10.665 Section R907.3 Amended; Reroofing; Recovering Versus Replacement.

Section R907.3 of the International Residential Code is amended to read as follows:

R907.3 Recovering versus replacement. New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

Exception: The application of new protective coating over existing spray polyurethane foam roofing systems shall be permitted without tear-off of existing roof covering. (Ord. 20256 §132; October 19, 2015).

20.10.670 Section R1003.11 Deleted; Masonry Chimneys; Flue Lining (Material).

Section R1003.11 of the International Residential Code is hereby deleted. (Ord. 20256 §133; October 19, 2015).

20.10.675 Section R1003.11.2 Deleted; Flue Linings for Specific Appliances.

Section R1003.11.2 of the International Residential Code is hereby deleted. (Ord. 20256 §134; October 19, 2015).

20.10.680 Section R1003.11.3 Deleted; Gas Appliances.

Section R1003.11.3 of the International Residential Code is hereby deleted. (Ord. 20256 §135; October 19, 2015).

20.10.685 Section R1003.11.4 Amended; Pellet Fuel-Burning Appliances.

Section R1003.11.4 of the International Residential Code is amended to read as follows:

R1003.11.4 Pellet fuel-burning appliances. Flue lining and vent systems for use in masonry chimneys with pellet fuel-burning appliances shall be limited to the following:

1. Flue lining systems complying with Section R1003.11.1.

2. Pellet vents listed for installation within masonry chimneys. (See Section R1003.11.6 for marking.) (Ord. 20256 §136; October 19, 2015).

20.10.690 Section R1003.11.5 Deleted. Oil-fired Appliances.

Section R1003.11.5 of the International Residential Code is hereby deleted. (Ord. 20256 §137; October 19, 2015).

20.10.695 Section R1003.14 Deleted; Flue Area (Appliance).

Section R1003.14 of the International Residential Code is hereby deleted. (Ord. 20256 §138; October 19, 2015).

20.10.700 Section R1004.4 Deleted; Unvented Gas Log Heaters.

Section R1004.4 of the International Residential Code is hereby deleted. (Ord. 20256 §139; October 19, 2015).

20.10.705 Energy Conservation.

For purposes of compliance with the State Building Code and the Nebraska Energy Code, Chapter 11 of the 2009 International Residential Code has been adopted at Section 20.10.010 of this code. The requirements of the Nebraska Energy Code, Neb. Rev. Stat. § 81-1611 through 81-1626, shall apply to all new single and two-family dwellings or portions thereof which are heated and/or mechanically cooled. (Ord. 20256 §140; October 19, 2015).

20.10.710 Chapters 12 through 43 of the International Residential Code Deleted.

Chapters 12 through 43 of the International Residential Code are hereby deleted. (Ord. 20256 §141; October 19, 2015).

[FIGURES REFERRED TO WITHIN THIS CHAPTER FOLLOW]

FIGURE R302.2 (1)

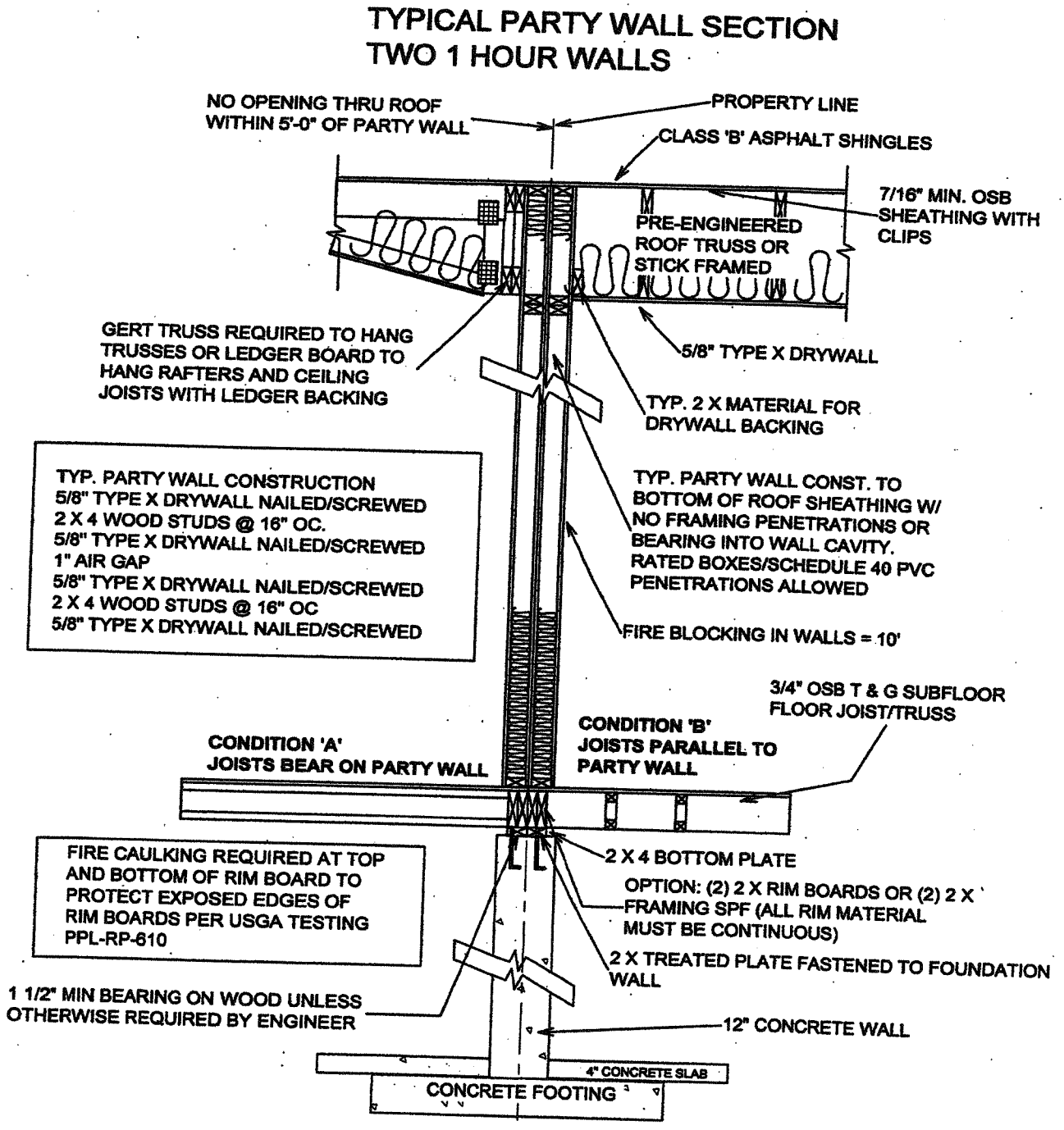


FIGURE R302.2 (2)

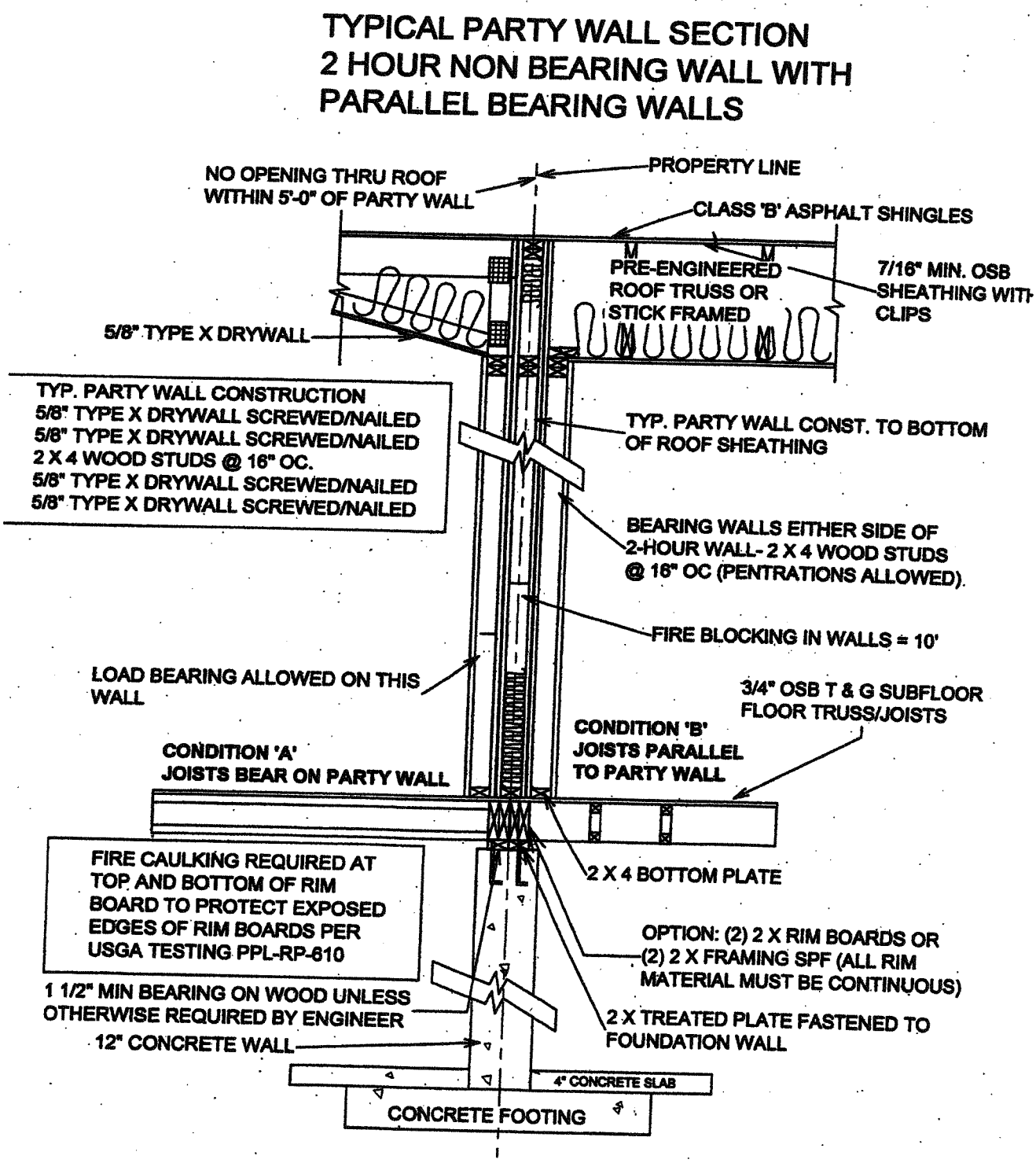


FIGURE R302.2 (3)

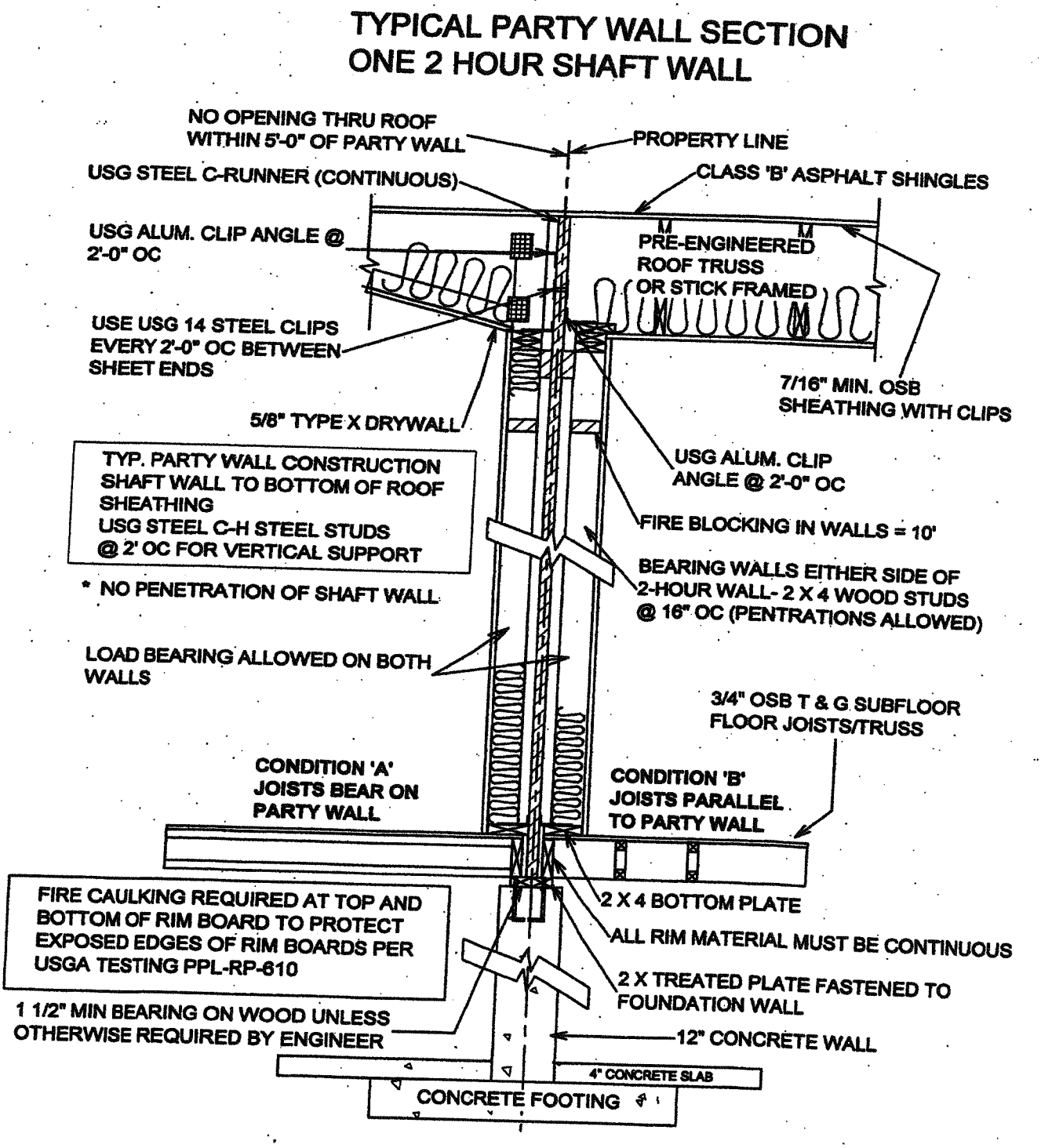
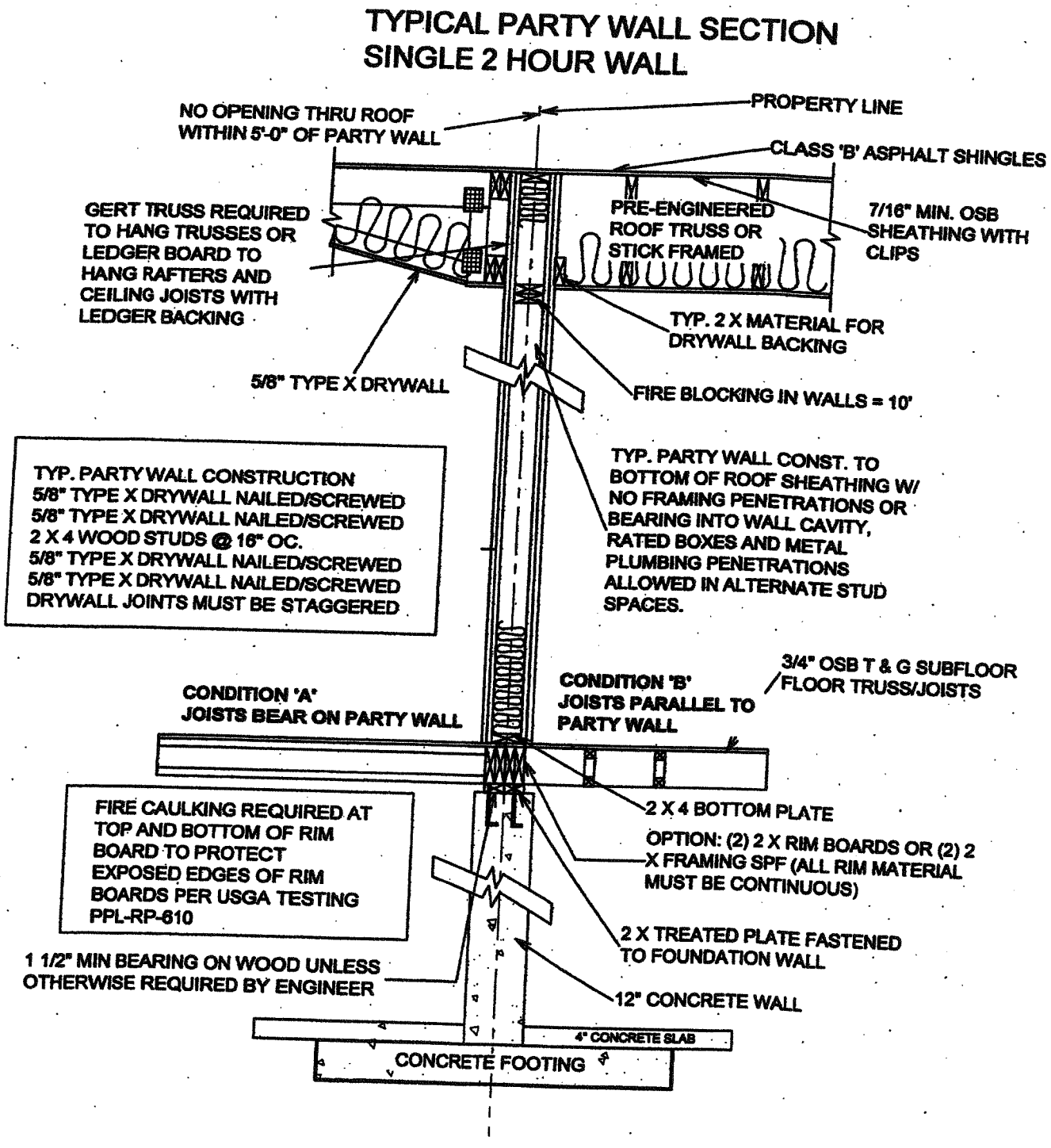


FIGURE R302.2 (4)



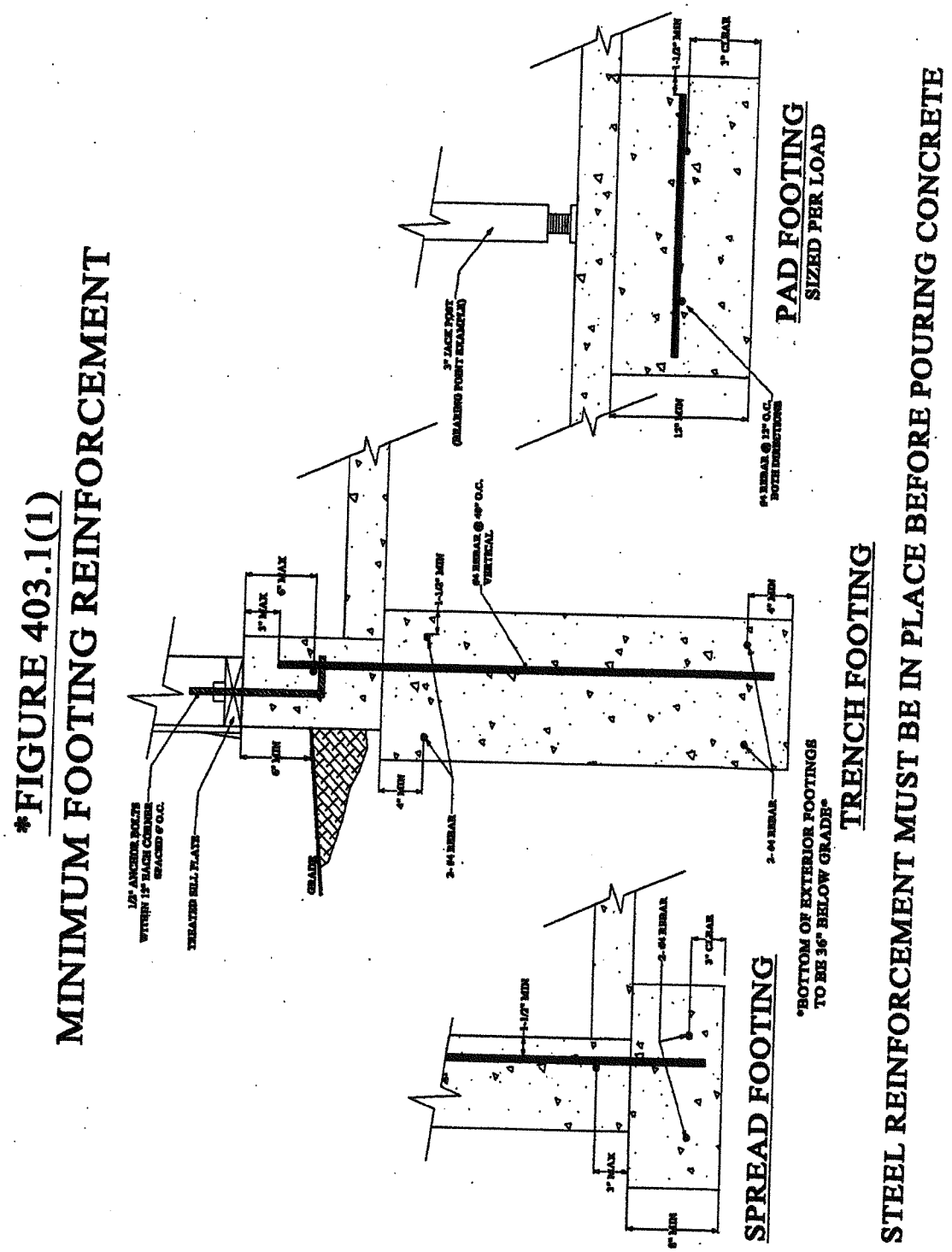


*FIGURE 403.1(1)
MINIMUM FOOTING REINFORCEMENT
PAD FOOTING
SIZED PER LOAD
TRENCH FOOTING
SPREAD FOOTING
STEEL REINFORCEMENT MUST BE IN PLACE BEFORE POURING CONCRETE

*FIGURE R403.1(1)
MONOLITHIC SLAB

- *SINGLE STORY ONLY
- *500 SQ. FT. MAX
- *20' MIN. DIMENSION
- *1- ROW BLOCK MAX
- *12" MAX FILL

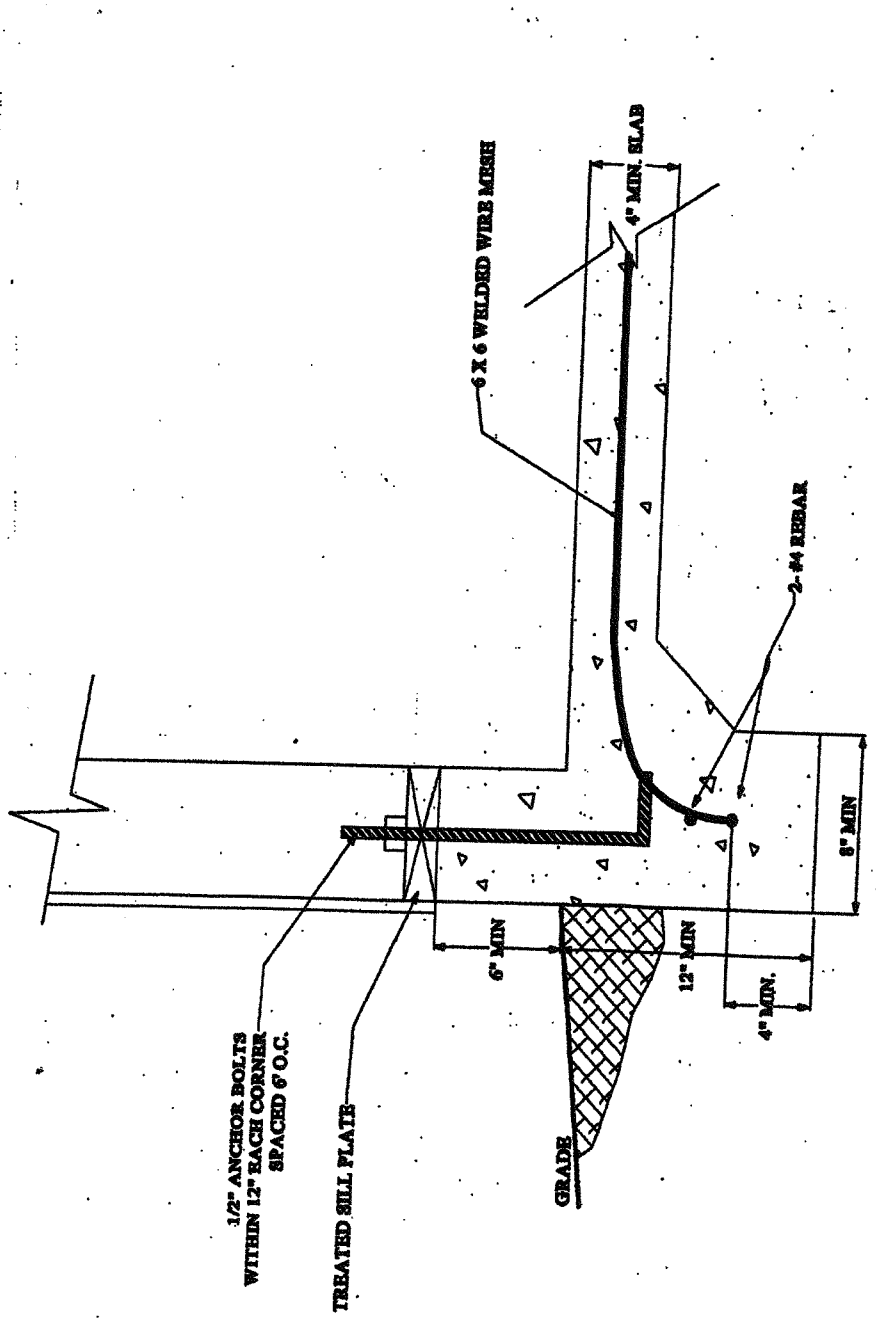


FIGURE R404.1.1 (3)

PERMANENT MASONRY FOUNDATION BASEMENT WALL SECTION

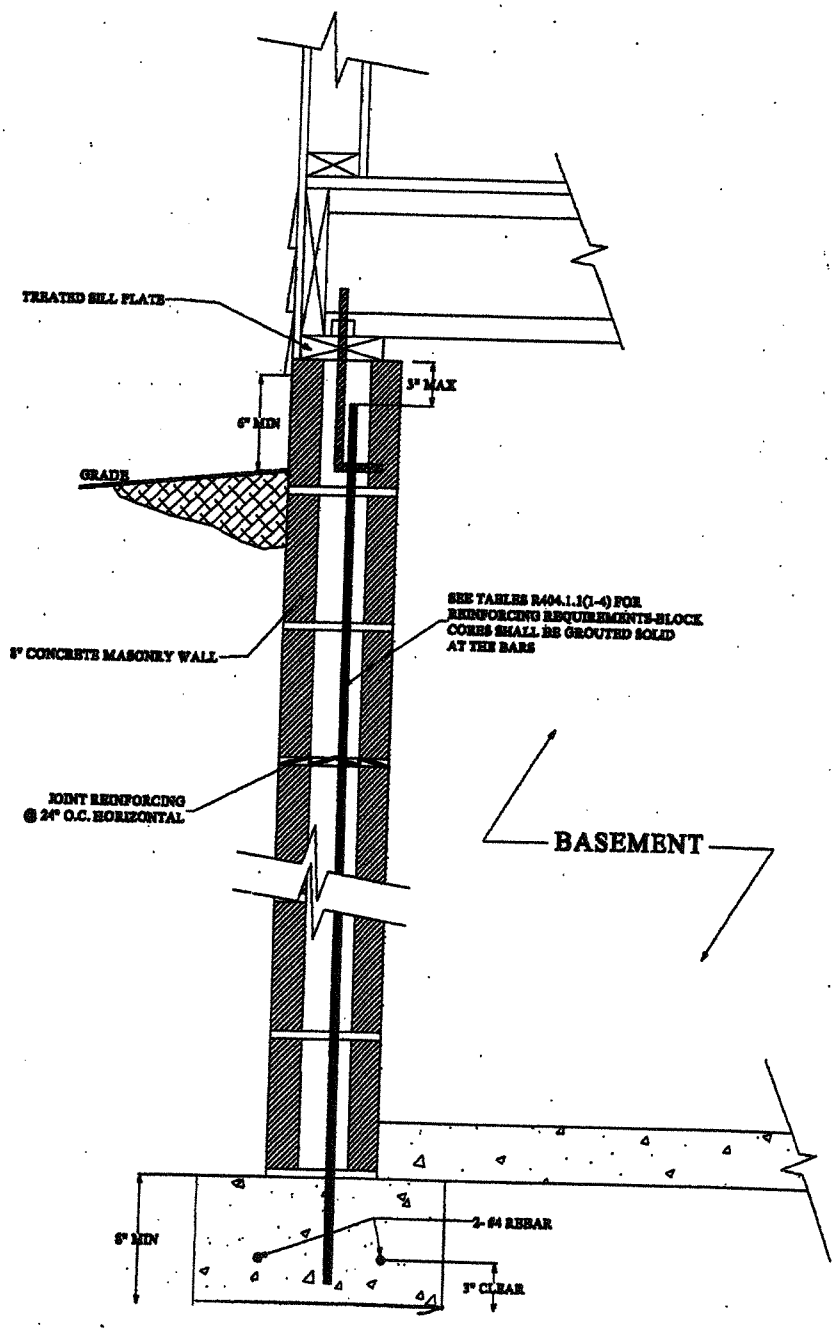
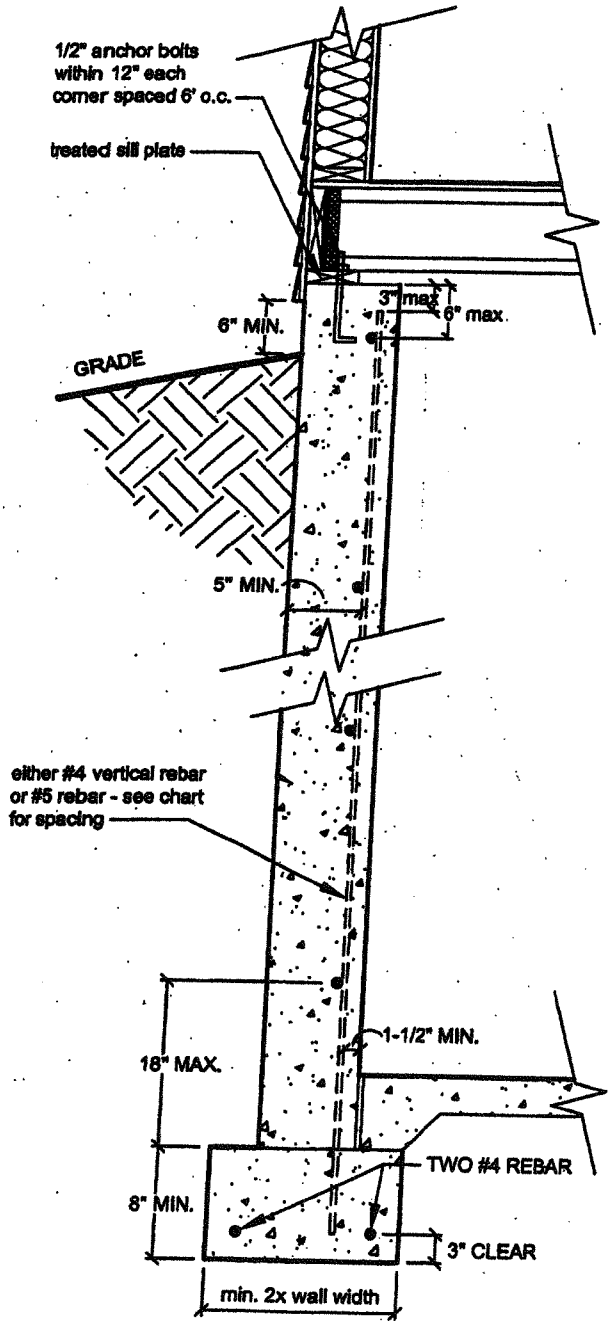


FIGURE R404.1.2.2 (1)

BASEMENT WALL SECTION



10" Concrete Foundation		
Wall Height	Vertical Spacing	
	#4 rebar	#5 rebar
4' *	18" o.c.	24" o.c.
8'	24" o.c.	40" o.c.
9'	20" o.c.	30" o.c.
10'	16" o.c.	24" o.c.

8" Concrete Foundation		
Wall Height	Vertical Spacing	
	#4 rebar	#5 rebar
4' *	18" o.c.	24" o.c.
8'	24" o.c.	30" o.c.
9'	16" o.c.	24" o.c.
10'	12" o.c.	18" o.c.

horizontal spacing #4 rebar 24" o.c. with bottom rebar 18" or less from top of footing and top rebar between 3" and 6" from top of foundation wall.

* 2' deadman required at 12' o.c. entire length of wall

May 5th 2011

FIGURE R404.1.2.2 (2)

MIN. CONCRETE FOUNDATION WALL CORNER DETAIL (RESIDENTIAL POURED WALL)

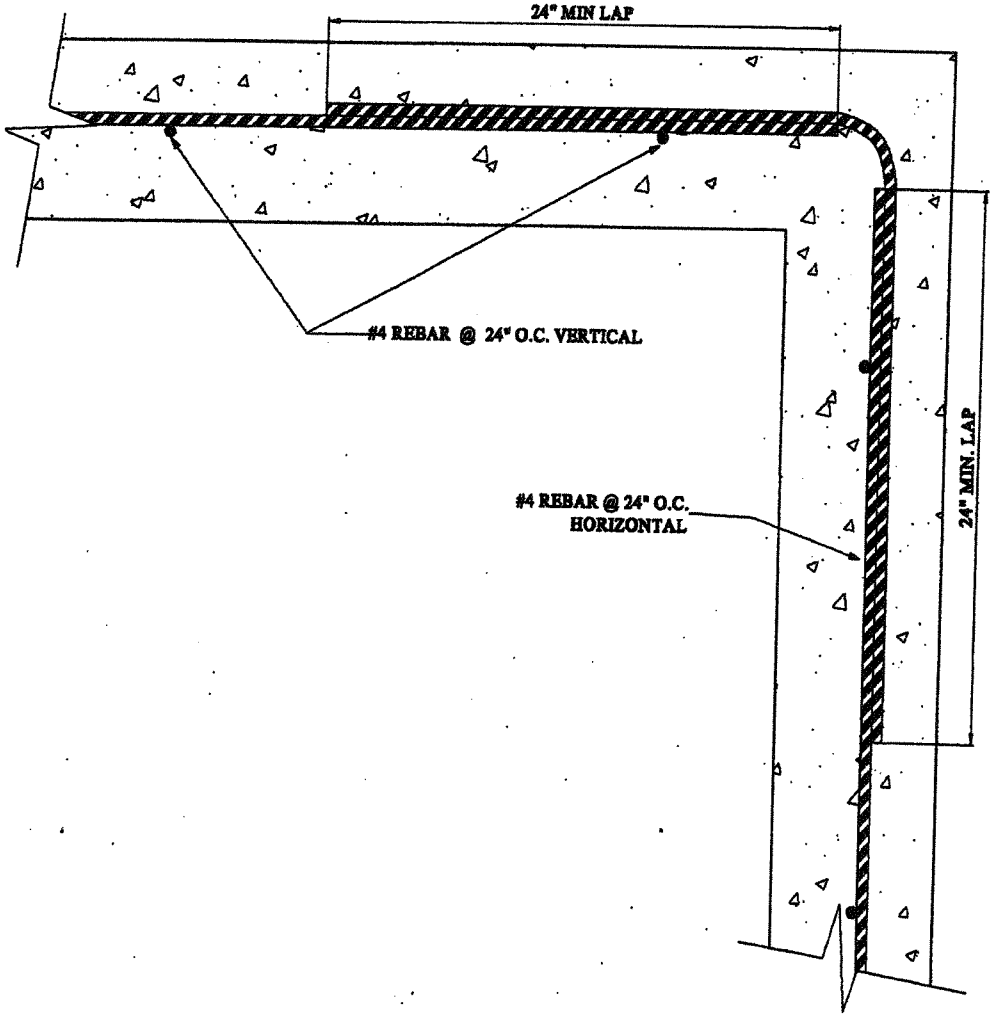
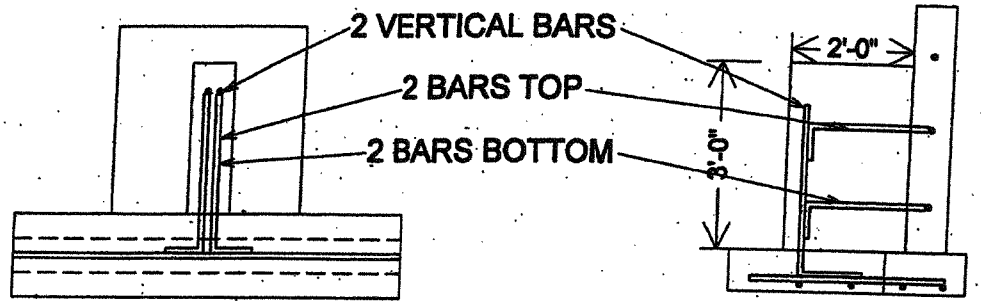


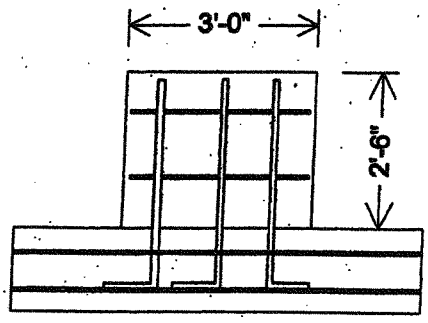
FIGURE R404.1.2.2.1

DEADMAN / 4 FOOT CONCRETE WALL 20 FT O.C.



TOP VIEW OF DEADMAN STEEL

SIDE VIEW OF DEADMAN STEEL



TOP VIEW OF FOOTING STEEL

FIGURE R404.1.5.2

GARAGE DOOR STEM WALL FOR BRACED WALL PANEL

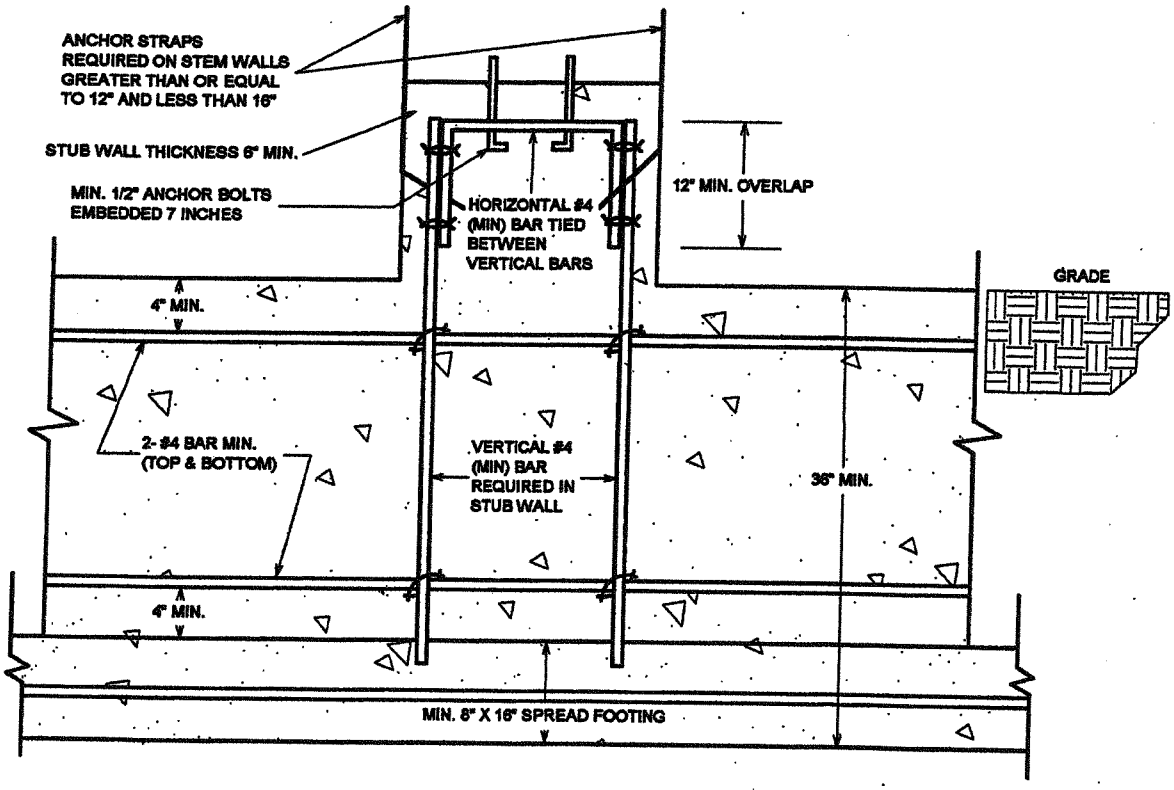


Figure 602.10.3.5

ALTERNATE BRACED WALL PANEL AT GARAGE DOOR OPENINGS

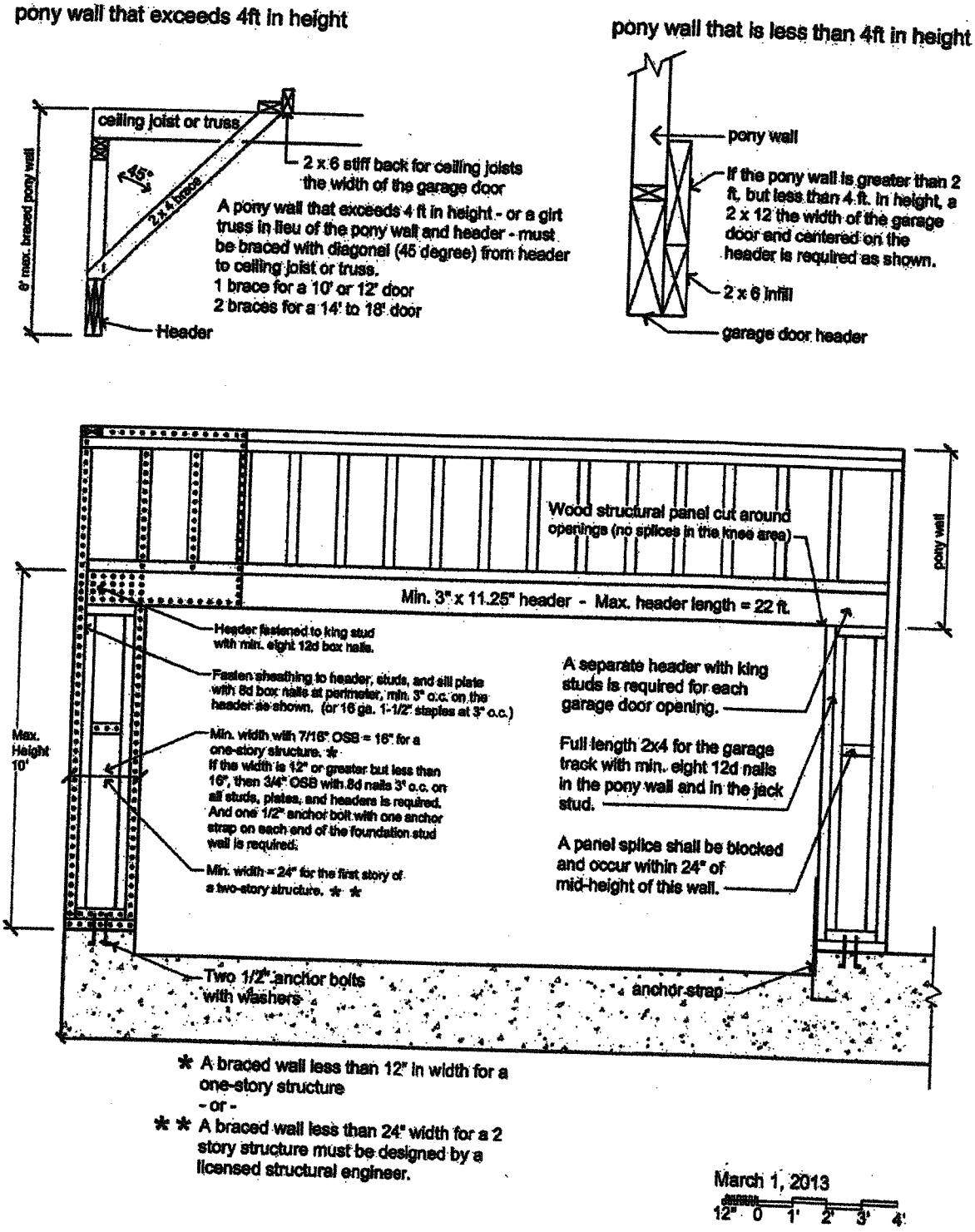


FIGURE R602.10.4

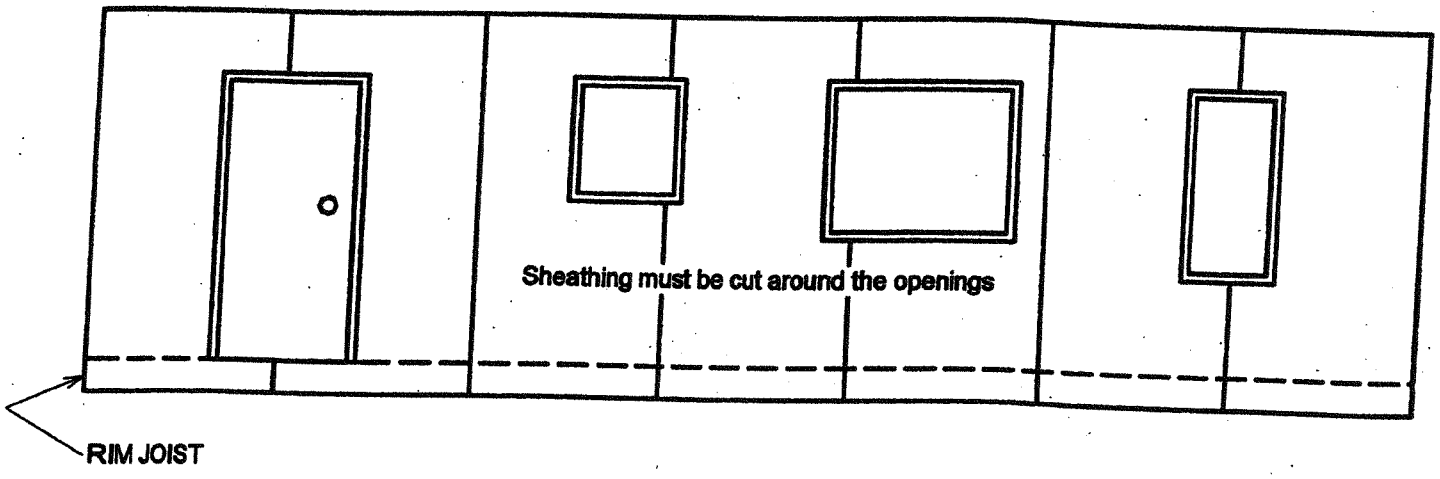
BRACED WALLS USING CONTINUOUS OSB SHEATHING

All Panels are a part of the braced wall and contribute to the total strength of the wall.

Minimum sheathing thickness is 7/16" OSB.

Nailing - 8d-6" perimeter and around openings and 12" in the field, or 1 3/4 16 ga staples 4" perimeter and around openings and 8" in the field.

Sheathing can be vertical or horizontal with no blocking.



Wall sheathing extends to bottom of sill plate or 1" metal strap 4' O.C. minimum.

**Former Chapter 20.12 - §§ 20.12.010 - 20.12.670, relating to the International Residential Code, 2009 Edition, was repealed by Ord. 20256 § 144; October 19, 2015.

*Former Chapter 20.10 - §§ 20.10.010 - 20.10.820, relating to the International Residential Code, 2006 Edition, was repealed by Ord. 19674 §135; February 13, 2009.

Prior History: See Ord. 19275, passed June 29, 2009; Ord. 19033 passed January 7, 2008; Ord. 17996 and 17997 passed May 13, 2002; Ord. 19033 passed January 7, 2008; Ord. 17455 passed January 11, 1999.

CHAPTER 21.05

PROPERTY MAINTENANCE CODE OF THE CITY OF LINCOLN

Sections:

21.05.010	Adoption of International Property Maintenance Code 2009 Edition.
21.05.020	Section 101.1 Amended; Title.
21.05.030	Section 101.2 Amended; Scope.
21.05.040	Section 101.3 Amended; Intent.
21.05.050	Section 102.3 Amended; Application of Other Codes.
21.05.060	Section 102.7 Amended; Referenced Codes and Standards.
21.05.070	Section 103 Amended; Department of Building and Safety.
21.05.080	Section 104.2 Amended; Inspections.
21.05.090	Section 104.6 Amended; Department Records.
21.05.100	Section 105.1 Amended; Modifications.
21.05.110	Section 105.3.1 Amended; Test Methods.
21.05.120	Section 106 Amended; Violations.
21.05.130	Section 107.1 Amended; Notice to Person Responsible.
21.05.140	Section 107.3 Amended; Method of Service.
21.05.150	Section 107.4 Amended; Unauthorized Tampering.
21.05.160	Section 108.1 Amended; Unsafe Structures and Equipment; General.
21.05.170	Section 108.4.1 Amended; Placard Removal.
21.05.180	Section 108.5 Amended; Prohibited Occupancy.
21.05.190	Section 109 Amended; Emergency Measures.
21.05.200	Section 110 Amended; Demolition.
21.05.210	Section 111 Amended; Means of Appeal.
21.05.220	Section 112.4 Amended; Failure to Comply.
21.05.225	International Property Maintenance Code Task Force Created.
21.05.230	Section 201.3 Amended; Terms Defined in Other Codes.
21.05.240	Section 202 Amended; General Definitions.
21.05.250	Section 302 Amended; Exterior Property Areas.
21.05.260	Section 303 Deleted; Swimming Pools, Spas and Hot Tubs.
21.05.270	Section 304.2 Amended; Protective Treatment.
21.05.280	Section 304.13 Exception Added; Window, Skylight and Door Frames.
21.05.290	Section 304.14 Amended; Insect Screens.
21.05.300	Section 304.17 Amended; Guards for Basement Windows.
21.05.310	Section 304.18.1 Deleted; Building Security; Doors.
21.05.320	Section 304.19 Added; Maintenance of Buildings and Premises.
21.05.330	Section 305.1 Amended; Interior Structure, General.
21.05.340	Section 305.1.1 Amended; Interior Structure, Unsafe Conditions.
21.05.345	Section 307 Amended; Handrails and Guardrails.
21.05.350	Section 308 Amended; Solid Waste.
21.05.360	Section 309 Amended; Pest Extermination.
21.05.370	Section 403 Amended; Ventilation.
21.05.380	Section 404.7 Deleted; Food Preparation.
21.05.390	Sections 502.4 and 502.4.1 Deleted; Employees' Facilities; Drinking Facilities.
21.05.400	Section 503 Amended; Toilet Rooms.
21.05.410	Section 505.1 Amended; Water System; General.
21.05.420	Section 507 Deleted; Storm Drainage.
21.05.430	Section 602 Amended; Heating Facilities.
21.05.440	Section 603.2 Exception Deleted; Removal of Combustion Products.
21.05.450	Section 603.3 Amended; Clearances.

21.05.460 Section 604.2 Amended; Electrical Facilities; Service.
21.05.465 Section 605.2 Amended; Receptacles.
21.05.470 Section 605.3 Amended; Lighting Fixtures.
21.05.480 Section 606 Deleted; Elevators, Escalators and Dumbwaiters.
21.05.490 Section 702.1 Amended; Means of Egress; General.
21.05.500 Section 702.3 Amended; Means of Egress; Locked Doors.
21.05.510 Section 704 Amended; Fire Protection Systems.
21.05.520 Appendix A Deleted; Boarding Standard.

21.05.010 Adoption of International Property Maintenance Code 2012 Edition.

Except as hereinafter provided by specific amendment, the International Property Maintenance Code 2012 Edition, hereinafter referred to as the "International Property Maintenance Code" is hereby adopted and incorporated into Title 21 of the Lincoln Municipal Code. (Ord. 20258 §1; October 19, 2015: prior Ord. 19349 §1; March 1, 2009).

21.05.020 Section 101.1 Amended; Title.

Section 101.1 of the International Property Maintenance Code is amended to read as follows:

101.1 Title. These regulations shall be known as the *Property Maintenance Code of the City of Lincoln*, hereinafter referred to as "this code." (Ord. 19349 §2; March 1, 2009).

21.05.030 Section 101.2 Amended; Scope.

Section 101.2 of the International Property Maintenance Code is amended to read as follows:

101.2 Scope. The provisions of this code shall apply to all existing residential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe, sanitary, and adequate maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties. The jurisdiction will include the City of Lincoln (hereinafter referred to as "the City") and within three miles of the corporate limits of the City and outside of any other organized city or village. (Ord. 19349 §3; March 1, 2009).

21.05.040 Section 101.3 Amended; Intent.

Section 101.3 of the International Property Maintenance Code is amended to read as follows

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, welfare and the protection of neighborhoods from hazardous, blighting and deteriorating influences or conditions that have a negative impact on area property values and discourage property owners from improving their properties, by regulating and controlling the use and occupancy, insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the International Residential Code, as amended, and the International Building Code, as adopted by the City of Lincoln. (Ord. 19349 §4; March 1, 2009).

21.05.050 Section 102.3 Amended; Application of Other Codes.

Section 102.3 of the International Property Maintenance Code is amended to read as follows

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Residential Code or International Building Code, as adopted by the City. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Lincoln Municipal Code. (Ord. 19349 §5; March 1, 2009).

21.05.060 Section 102.7 Amended; Referenced Codes and Standards.

Section 102.7 of the International Property Maintenance Code is amended to read as follows:

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be as follows: International Residential Code for One and Two Family Dwellings, International Building Code, International Fire Code, Uniform Plumbing Code, International Mechanical Code, National Electrical Code, and the International Fuel Gas Code, all as adopted by the City of Lincoln, Nebraska. All said codes shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Exception: Where enforcement of a code provision would violate the conditions of the listing as published by the manufacturer of the equipment or appliance, the conditions of the listing shall apply. (Ord. 19349 §6; March 1, 2009).

21.05.070 Section 103 Amended; Department of Building and Safety.

Section 103 of the International Property Maintenance Code is amended to read as follows:

SECTION 103 - DEPARTMENT OF BUILDING AND SAFETY

103.1 General. The Director of Building and Safety Department shall be the executive official in charge of this code and hereinafter referred to as the code official.

103.2 Deputies. In accordance with the prescribed procedures of the City, the code official shall have the authority to appoint designated technical officers, housing inspectors and other employees to assist in the enforcement of this code.

103.3 Liability. The code official, members of the board of appeals or employees charged with the enforcement of this code, while acting for the City, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damages accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any official or employee because of an act performed by that official or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the City until the final termination of the proceedings. The code official or any subordinate shall not be personally liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code. (Ord. 19349 §7; March 1, 2009).

21.05.080 Section 104.2 Amended; Inspections.

Section 104.2 of the International Property Maintenance Code is amended to read as follows:

104.2 Inspections. The code official shall be responsible for making all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing by an inspector of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. (Ord. 19349 §8; March 1, 2009).

21.05.090 Section 104.6 Amended; Department Records.

Section 104.6 of the International Property Maintenance Code is amended to read as follows:

104.6 Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained for ten years. (Ord. 19349 §9; March 1, 2009).

21.05.100 Section 105.1 Amended; Modifications.

Section 105.1 of the International Property Maintenance Code is amended to read as follows:

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the code official shall first find that special individual reason or reasons that make the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files. (Ord. 19349 §10; March 1, 2009).

21.05.110 Section 105.3.1 Amended; Test Methods.

Section 105.3.1 of the International Property Maintenance Code is amended to read as follows:

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by a qualified agency. (Ord. 19349 §11; March 1, 2009).

21.05.120 Section 106 Amended; Violations.

Section 106 of the International Property Maintenance Code is amended to read as follows:

SECTION 106 – VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. The code official shall serve a notice of violation or order in accordance with Section 107.

106.2.1 Inspections and fees for single-family and two-family dwelling unit. Following the finding of any violation of this title, the code official shall provide the violating party reasonable time to correct the violation. A single family or two-family dwelling unit shall be placed on a six month inspection schedule upon the occurrence of any one of the following:

1. Two or more different complaint inspections, each resulting in code violations, within any twelve-month period;

2. Adjudication by a court of competent jurisdiction of one or more code violations. A dwelling unit placed on a six-month inspection schedule shall remain on said schedule until it has received two consecutive six-month inspections with no code violations during that time.

An inspection fee shall be charged in an amount set by the Director, subject to the approval of the Mayor.

1. For dwelling units on a six-month inspection schedule: Inspection fee is waived for a preliminary complaint-based inspection when no code violations are found.

2. For dwelling units not on a six-month inspection schedule:

(i) Inspection fee is waived for a preliminary inspection.

(ii) Inspection fee is waived for the first re-inspection when all code violations noted in the preliminary complaint-based inspection are repaired within the time allowed by the Building Official

106.2.2 Inspections and fees for dwelling units other than single-family or two-family dwelling units. Following the finding of any violation of this title, the code official shall provide the violating party reasonable time to correct the violation. Inspections, schedules, and fees shall be those set forth in Section 5.38.040.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the City, and the violation shall be deemed a strict liability offense. If the notice of the violation or order is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the City on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person upon whom a duty is placed by the provisions of this title who shall fail, neglect, or refuse to perform such duty, or who shall violate a provision of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00 or be imprisoned in the county jail for a period not to exceed six months, or both, except that each person so convicted shall be fined in a sum of not less than $200.00 for the first offense, not less than $300.00 for a second offense, and not less than $400.00 for the third offense and each offense thereafter. The penalty herein provided shall be cumulative with and in addition to the revocation, cancellation or forfeiture of any license, permit, or right elsewhere provided for violation thereof or as provided by law. Each day that a violation of this title continues shall constitute a separate and distinct offense and shall be punishable as such.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the city attorney from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal

occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises. (Ord. 19422 §1; August 2, 2010: prior Ord. 19349 §12; March 1, 2009).

21.05.130 Section 107.1 Amended; Notice to Person Responsible.

Section 107.1 of the International Property Maintenance Code is amended to read as follows:

107.1 Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures under this code shall also comply with Section 108.3. (Ord. 19349 §13; March 1, 2009).

21.05.140 Section 107.3 Amended; Method of Service.

Section 107.3 of the International Property Maintenance Code is amended to read as follows:

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the address listed in the records of the County Assessor; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. (Ord. 19349 §14; March 1, 2009).

21.05.150 Section 107.4 Amended; Unauthorized Tampering.

Section 107.4 of the International Property Maintenance Code is amended to read as follows:

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization by the code official. Such tampering shall constitute a misdemeanor and shall be punishable as set forth in Section 106.4. (Ord. 19349 §15; March 1, 2009).

21.05.160 Section 108.1 Amended; Unsafe Structures and Equipment; General.

Section 108.1 and subsections 108.1.1 through 108.1.5 of the International Property Maintenance Code are amended to read as follows:

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire or other life threatening event, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is a nuisance or lacks ventilation, illumination, or heating facilities or other essential requirements of this code, or the location of the structure constitutes a hazard to the occupants of the structure or to the public. Whenever the health officer finds that such structure, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin- or rat-infested, contains filth and contamination, or is a nuisance, such structure shall be unfit for human occupancy and the health officer shall make such finding to the code official.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be erected, altered, or maintained or occupied contrary to this code.

108.1.5 Dangerous structure or premises. For the purposes of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the City as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that does not have sufficient strength or stability, or is not anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half times the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy as determined by the code official or his designated employee.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the City, or any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated condition, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

11. Any portion of a building remains on a site after demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public. (Ord. 19349 §16; March 1, 2009).

21.05.170 Section 108.4.1 Amended; Placard Removal.

Section 108.4.1 of the International Property Maintenance Code is amended to read as follows:

108.4.1 Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be guilty of a misdemeanor and shall be subject to the penalties provided by Section 106.4. (Ord. 19349 §17; March 1, 2009).

21.05.180 Section 108.5 Amended; Prohibited Occupancy.

Section 108.5 of the International Property Maintenance Code is amended to read as follows:

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be guilty of a misdemeanor and subject to the penalties provided by Section 106.4. (Ord. 19349 §18; March 1, 2009).

21.05.190 Section 109 Amended; Emergency Measures.

Section 109 of the International Property Maintenance Code is amended to read as follows:

SECTION 109 - EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure

has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of hazardous fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same. The code official may request assistance from such other agencies of the City as may be reasonably necessary to empty the premises or building.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible. The cost of such repairs are chargeable to the property and shall be a lien upon such real estate.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the City. The city attorney shall institute appropriate action against the owner of the premises for the recovery of such costs. Such costs may also be assessed as a lien against the property as allowed in Section 110.5 or as allowed by law.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Housing Advisory and Appeals Board, be afforded a hearing as described in this code. (Ord. 19349 §19; March 1, 2009).

21.05.200 Section 110 Amended; Demolition.

Section 110 of the International Property Maintenance Code is amended to read as follows:

SECTION 110 - DEMOLITION

110.1 General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond six months, unless approved by the building official.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order or an order giving the owner the option to repair and make safe or demolish, within the time prescribed, the code official shall cause the structure to be demolished and removed or repaired and made safe, as prescribed by current city contract procedure, and the cost of such demolition and removal or repair shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the City Council under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, to the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

110.5 Recovery of Cost of Repair or Demolition.

110.5.1 Account of Expense. The code official shall keep an itemized account of the expenses incurred by the City in the repair or demolition of any building done pursuant to this code. Upon the completion of the

work of repair or demolition, said code official shall prepare and file with the city clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located and the names and addresses of the owners of the property.

110.5.2 Notice of Hearing. Upon receipt of said report, the city clerk shall present it to the City Council for consideration. The City Council shall fix a time, date, and place for hearing said report and any protests or objections thereto. The city clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by certified mail, postage prepaid, addressed to the owner of said property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour and place the Council will hear and pass upon the code official's report, together with any objection or protests which may be made thereto, and assess such property with such cost. Such assessment shall be certified by the city clerk to the appropriate taxing official for the City, and shall be collected in the manner provided by law for the collection of general real estate taxes. Such assessment shall be a lien upon such property from the date of assessment, shall become delinquent December 1 after the date of assessment, and shall draw interest from said date until paid at the same rate as provided by law for delinquent general real estate taxes. (Ord. 19349 §20; March 1, 2009).

21.05.210 Section 111 Amended; Means of Appeal.

Section 111 of the International Property Maintenance Code is amended to read as follows:

SECTION 111 -- MEANS OF APPEAL

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Housing Advisory and Appeals Board, provided that a $100.00 filing fee and a written application for appeal is filed within twenty days after the day the decision, notice or order was served or such person directly affected. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Board shall have no authority to interpret the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

111.1.1 Effect of failure to appeal. Failure of any person to file an appeal shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or to any portion thereof.

111.1.2 Scope of hearing on appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

111.2 Membership of board. The Housing Advisory and Appeals Board shall consist of a minimum of five members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the City. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the Mayor. Appointments shall be for three-year staggered terms.

111.2.1 Chairman. The board shall annually select one of its members to serve as chairman.

111.2.2 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

111.2.3 Secretary. The code official shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the Mayor.

111.3 Notice of meeting. The board shall meet upon notice from the chairman, within thirty days of the filing of an appeal, or at stated periodic meetings.

111.4 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than three of the five-member board.

111.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require strict compliance with rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing. When a quorum of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

111.6 Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

111.6.1 Records and copies. The proceedings of the hearing and the decision of the board shall be recorded by tape recording or by other means of permanent recording determined appropriate by the board. The proceedings at the hearing shall also be reported by a stenographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved. Copies of the board's decision shall be furnished to the appellant and to the code official. The board's decision shall be public information.

111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the board.

111.7 Court review. Appeals of the board's decision shall be filed in accordance with state law.

111.8 Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Housing Advisory and Appeals Board. (Ord. 19349 §21; March 1, 2009).

21.05.220 Section 112.4 Amended; Failure to Comply.

Section 112.4 of the International Property Maintenance Code is amended to read as follows:

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $200.00 or more than $500.00. (Ord. 19349 §22; March 1, 2009).

21.05.225 International Property Maintenance Code Task Force Created.

There is hereby created the International Property Maintenance Code Task Force which shall advise the Mayor of the suitability of maintenance standards for residential housing and reasonable interpretations of this code; review and recommend changes to this code; and provide such other advisory duties related to this code as may be deemed necessary by the Mayor. Appointments shall be made by the Mayor and shall run for three years each and all terms shall run concurrent with each other. Appointments for vacancies shall run only for the unexpired term. The Mayor may reappoint members as may be deemed appropriate and the Mayor may remove a member at any time. Each member shall serve without pay. Selection of officers, times and places for meetings, and other rules and procedures shall be as directed by the Mayor and set forth in an executive order. (Ord. 19963 §4; December 16, 2013).

21.05.230 Section 201.3 Amended; Terms Defined in Other Codes.

Section 201.3 of the International Property Maintenance Code is amended to read as follows:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Fire Code, Uniform Plumbing Code, International Mechanical Code, National Electrical Code, or the International Fuel Gas Code, such terms shall have the meanings ascribed to them as stated in those codes, as adopted by the City of Lincoln, Nebraska. (Ord. 19349 §23; March 1, 2009).

21.05.240 Section 202 Amended; General Definitions.

Section 202 of the International Property Maintenance Code is amended to read as follows:

SECTION 202 - GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Approved by the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes.

BLIGHT OR BLIGHTED. Any unsightly condition including the accumulation of debris, litter, rubbish or rubble; fences characterized by holes, breaks, rot, crumbling, crackling, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged and any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.

CODE OR BUILDING OFFICIAL. The Director of Building & Safety Department who is charged with the administration and enforcement of this code, or any duly authorized representative.

CODE VIOLATION. A violation of Lincoln Municipal Code Titles 5, 19, 20, 21, 23, 24, 25, or 27 requiring some corrective action on the part of an owner, local property manager, or tenant as a result of an inspection by the Building Official pursuant to procedures as set forth in Lincoln Municipal Code Titles 5, 19, 20, 21, 23, 24, 25, or 27, hereinafter referred to as "the Codes."

COMPLAINT BASED INSPECTION. Any inspection required as a result of a complaint placed with the Building Official.

CONDEMN. To adjudge unfit for occupancy.

DEBRIS. Any substance of little or no apparent economic value including, but not limited to, deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, abandoned, broken or neglected equipment, or the scattered remains of items.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness. The lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, peeling, rusting, or any other evidence of physical decay or neglect or excessive use or lack of maintenance over a substantial or widespread area as opposed to a limited or concentrated area.

DWELLING UNIT. Any room or group of rooms located in a structure and forming a single habitable unit with permanent facilities which are used or intended to be used for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HEALTH OFFICER. The Director of the Lincoln-Lancaster County Department of Health or any duly authorized representative.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INSPECTION. Any investigatory review by the Building Official of a house or dwelling unit for compliance with the Codes.

JURISDICTION. The City of Lincoln, Nebraska.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal

owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

LITTER. Decaying or non-decaying solid and semi-solid wastes including, but not limited to, both combustible and non-combustible wastes, such as paper, trash, cardboard, waste material, cans, yard clippings, wood, glass, bedding, debris, scrap paving material, discarded appliances, discarded furniture, dry vegetation, weeds, dead trees and branches, overgrown vegetation and trees which may become a fire hazard, piles of earth mixed with any of the above or any foreign objects, including inoperable vehicles, except, for purposes of this ordinance, litter shall not include organic materials being composted in a safe and sanitary manner in accordance with Chapter 5.41 of the Lincoln Municipal Code.

NEGLECT. The omission, failure, or unreasonable forbearance in providing maintenance, pursuant to the Property Maintenance Code of the City of Lincoln, to buildings and structures.

NUISANCE. Nuisance shall mean any public nuisance known at common law or in equity jurisprudence including, but not limited to the following:

(a) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.

(b) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.

(c) Overcrowding a room with occupants.

(d) Insufficient ventilation or illumination.

(e) Inadequate or unsanitary sewage or plumbing facilities

(f) Uncleanliness, as determined by the health officer.

(g) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

(h) Any building or structure which as a result of vandalism, neglect, inadequate maintenance, or lack of repair is permitted to become so blighted, deteriorated or dilapidated that such building or structure is detrimental to or endangers the health, safety, or welfare of the public or occupants thereof.

(i) Any premises which as a result of vandalism, neglect or inadequate maintenance or lack of repair is permitted to become so blighted that such premises is detrimental to or endangers the health, safety, or welfare of the public or occupants thereof.

(j) Vacant or abandoned buildings which for a period of three months or more have been boarded up, left in a partial state of destruction, or left in a state of partial construction after the expiration of a building permit for such construction.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. This includes the authorized representative of the trust or estate, and the trustee, executor, personal representative, or administrator of a decedent's estate that is authorized to take control or possession of real estate pursuant to court order or applicable law. This would include trusts as well as decedents' estates.

PERMIT INSPECTION shall mean any inspection required as part of the permit issuing process required in Section 5.38.020.

PERSON. An individual, corporation, partnership or any entity recognized by law.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PRELIMINARY INSPECTION. The first or initial inspection in any inspection process.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

PUTRESCIBLE. Something that could become rotten and foul smelling from the decomposition of organic matter by bacteria, fungi, and oxidation.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

RUBBLE. Broken solid surface fragments usually resulting from the decay or deterioration of a building; miscellaneous mass of broken or apparently worthless materials.

SOLID WASTE. All putrescible and nonputrescible wastes whether in solid or liquid form and includes garbage, scavenger matter, rubbish, ashes, refuse, fill dirt, sewage sludge, street refuse, commercial and industrial wastes, demolition debris and all used construction material, building rubbish, discarded automobile and other types of vehicle body parts or portions thereof, machinery or parts thereof, discarded home or industrial appliances, iron, steel and other old or metal scrap material, manure, human excrement, vegetable or animal solids and semi-solid waste, infectious waste, special waste, lawn waste, tree limbs, branches, shrubbery, bushes, and other similar organic waste, including garden vegetative material, dead animals or parts thereof, and other discarded solid materials.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or other entity recognized by law, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure. (Ord. 20258 § 2; October 19, 2015: prior Ord. 19422 §2; August 2, 2010: Ord. 19349 §24; March 1, 2009).

21.05.250 Section 302 Amended; Exterior Property Areas.

Section 302 of the International Property Maintenance Code is amended to read as follows:

SECTION 302
EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

302.2 Drainage around foundations. The ground around the foundation of a dwelling shall be graded so that water will drain away from the foundation and no standing water may collect within five feet of the structure.

302.3 Sidewalks and driveways. All private sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

302.5 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair. (Ord. 19349 §25; March 1, 2009).

21.05.260 Section 303 Deleted; Swimming Pools, Spas and Hot Tubs.

Section 303 of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §26; March 1, 2009).

21.05.270 Section 304.2 Amended; Protective Treatment.

Section 304.2 of the International Property Maintenance Code is amended to read as follows:

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint on more than 25% of any wall or face shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. (Ord. 19349 §27; March 1, 2009).

21.05.280 Section 304.13 Exception Added; Window, Skylight and Door Frames.

Section 304.13 of the International Property Maintenance Code is amended to read as follows:

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. **Exception:** When occupied, windows may be boarded for no more than 30 days. (Ord. 19349 §28; March 1, 2009).

21.05.290 Section 304.14 Amended; Insect Screens.

Section 304.14 of the International Property Maintenance Code is amended to read as follows:

304.14 Insect screens. During the period from May 15 to October 1, 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 screen door used for insect control 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. (Ord. 19349 §29; March 1, 2009).

21.05.300 Section 304.17 Amended; Guards for Basement Windows.

Section 304.17 of the International Property Maintenance Code is amended to read as follows:

304.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, screens, storm windows or other approved protection against the entry of rodents. (Ord. 19349 §30; March 1, 2009).

21.05.310 Section 304.18.1 Deleted; Building Security; Doors.

Section 304.18.1 of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §31; March 1, 2009).

21.05.320 Section 304.19 Added; Maintenance of Buildings and Premises.

Section 304.19 is added to the International Property Maintenance Code to read as follows:

304.19 Maintenance of Buildings and Premises. All buildings, or portions thereof, shall be adequately maintained so as to be free of deterioration that endangers or is likely to endanger the life, limb, health, property, safety, or welfare of the public or occupants thereof. All exposed exterior surfaces, windows and doors of buildings, structures and the premises upon which they are located shall be adequately maintained so as to not present a deteriorated or blighted appearance.

Inadequate maintenance of buildings shall include but not be limited to the following:

(1) Any building or portion thereof which is determined to be an unsafe building in accordance with the International Building Code as adopted by the City.

(2) Buildings which for a period of three months or more are boarded up, left in a partial state of destruction, or left in a state of partial construction after expiration of a building permit for such construction.

(3) Broken windows constituting hazardous conditions.
(4) Unpainted buildings which have begun to dry rot, warp, or become infested with termites.
(5) Buildings which have substantial and noticeable conditions of blight or deterioration.
(6) Buildings which have cracked, chipped, flaking, peeling, or missing paint over 25% or more of any wall or face of the building.
(7) Buildings which have upholstered or other furniture which is designed or manufactured primarily for indoor use with no original outdoor weatherproofing qualities including, but not limited to, upholstered chairs, upholstered couches, and mattresses used or left on unenclosed exterior porches, balconies, or in an exposed open area including, but not limited to, decks, patios, roofs, yards, driveways, or walkways.

Exterior porches shall not include any porch completely covered by a roof, when located at and attached to a building and completely enclosed by fully intact glass and/or fully intact screens which are designed to keep out insects and allow air flow.

Inadequate maintenance of the premises shall include, but not be limited to the following:

(1) Accumulation of debris, litter, rubbish, rubble, solid waste, and similar materials or conditions.
(2) Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating condition or storm damage constitute a health or safety hazard to persons in the vicinity thereof.
(3) Sources of infestation.
(4) Premises which have substantial and noticeable conditions of blight or disrepair.
(Ord. 19349 §32; March 1, 2009).

21.05.330 Section 305.1 Amended; Interior Structure, General.

Section 305.1 of the International Property Maintenance Code is amended to read as follows:

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, or two or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property. (Ord. 19349 §33; March 1, 2009).

21.05.340 Section 305.1.1 Amended; Interior Structure, Unsafe Conditions.

Section 305.1.1 of the International Property Maintenance Code is amended to read as follows:

305.1.1 Unsafe Conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code as adopted by the City as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members that are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, that are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

(Ord. 19349 §34; March 1, 2009).

21.05.345 Section 307 Amended; Handrails and Guardrails.

Section 307 of the International Property Maintenance Code is amended to read as follows:

SECTION 307 - HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs having four or more risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other

walking surface which is more than 30 inches above the floor or grade below shall have guards. Handrails shall not be less than 30 inches in height or more than 42 inches in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code. (Ord. §3; October 19, 2015).

21.05.350 Section 308 Amended; Solid Waste.

Section 308 of the International Property Maintenance Code is amended to read as follows:

SECTION 308 - SOLID WASTE

308.1 Accumulation of solid waste. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of solid waste.

308.2 Disposal of solid waste. The owner of a structure shall dispose of all solid waste in a clean and sanitary manner by supplying and placing such solid waste in an approved, leakproof, covered, outside container and collection of such solid waste shall be pursuant to Lincoln Municipal Code Chapter 8.32.

308.2.1 Disposal for Non-owner occupied. If the structure is non-owner occupied, said occupant of the structure shall place the solid waste in the containers provided by the owner and such solid waste shall be collected pursuant to Lincoln Municipal Code Chapter 8.32.

308.3 Refrigerators. Refrigerators, ovens, stoves and similar equipment, whether working or not, shall not be discarded, abandoned, unattended or stored on premises without first removing the doors. (Ord. 19349 §35; March 1, 2009).

21.05.360 Section 309 Amended; Pest Extermination.

Section 309 of the International Property Maintenance Code is amended to read as follows:

SECTION 309 - PEST EXTERMINATION

309.1 Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The owner of any structure shall be responsible for extermination within the structure. prior to renting or leasing the structure.

309.3 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, or a rooming house shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for extermination.

309.4 Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. Where an infestation is caused by failure of an occupant to prevent such infestation, the occupant shall be responsible for extermination.

Where the infestations are not caused by the occupant or where the infestations are caused by defects in the structure, the owner shall be responsible for extermination. (Ord. 19349 §36; March 1, 2009).

21.05.370 Section 403 Amended; Ventilation.

Section 403 of the International Property Maintenance Code is amended to read as follows:

SECTION 403 - VENTILATION

403.1 Habitable Spaces. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet ($2.33m^2$). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

403.3 Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit, except:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

403.4 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the Uniform Mechanical Code as adopted by the City, except listed and labeled condensing (ductless) clothes dryers. (Ord. 19349 §37; March 1, 2009).

21.05.380 Section 404.7 Deleted; Food Preparation.

Section 404.7 of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §38; March 1, 2009).

21.05.390 Sections 502.4 and 502.4.1 Deleted; Employees' Facilities; Drinking Facilities.

Section 502.4 and subsection 502.4.1 of the International Property Maintenance Code are hereby deleted. (Ord. 19349 §39; March 1, 2009).

21.05.400 Section 503 Amended; Toilet Rooms.

Section 503 of the International Property Maintenance Code is amended to read as follows:

[P] SECTION 503 - TOILET ROOMS

503.1 Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

503.2 Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition. (Ord. 19349 §40; March 1, 2009).

21.05.410 Section 505.1 Amended; Water System; General.

Section 505.1 of the International Property Maintenance Code is amended to read as follows:

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Uniform Plumbing Code as adopted by the City. (Ord. 19349 §41; March 1, 2009).

21.05.420 Section 507 Deleted; Storm Drainage. Section 507 of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §42; March 1, 2009).

21.05.430 Section 602 Amended; Heating Facilities.

Section 602 of the International Property Maintenance Code is amended to read as follows:

SECTION 602 - HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. Every dwelling unit shall be provided with heating facilities capable of maintaining a room temperature of 70°F at a point between three and five feet above the floor level, under local outdoor winter design conditions as specified in the ASHRAE Handbook, as referenced in the International Mechanical Code, as adopted by the City. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Exception: In months when the average monthly temperature is below 30°F, a minimum temperature of 68°F shall be maintained.

602.3 Heat supply. Every dwelling unit shall be provided with heating facilities capable of maintaining a room temperature of 70°F from October 1 through April 30 of each year at a point between three and five feet above the floor level, under local outdoor winter design conditions as specified in the ASHRAE Handbook, as referenced in the International Mechanical Code, as adopted by the City. Such facilities shall be

installed and maintained in a safe condition and in accordance with all other applicable laws. Unvented fuel-burning heaters are not permitted. All heating devices or appliances shall be of an approved type.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design 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.

2. In months when the average monthly temperature is below 30°F, a minimum temperature of 68°F shall be maintained.

602.4 Room temperature measurement. The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet inward from the center of each exterior wall. (Ord. 20258 § 4; October 19, 2015: prior Ord. 19349 §43; March 1, 2009).

21.05.440 Section 603.2 Exception Deleted; Removal of Combustion Products.

The Exception contained in Section 603.2 of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §44; March 1, 2009).

21.05.450 Section 603.3 Amended; Clearances.

Section 603.3 of the International Property Maintenance Code is amended to read as follows:

603.3 Clearances. All required clearances to use combustible materials shall be maintained. (Ord. 19349 §45; March 1, 2009).

21.05.460 Section 604.2 Amended; Electrical Facilities; Service.

Section 604.2 of the International Property Maintenance Code is amended to read as follows:

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code, as adopted by the City. Dwelling units shall be served by a three-wire, 120/240 volt, single phase electrical service having a rating of not less than 60 amperes. (Ord. 19349 §46; March 1, 2009).

21.05.465 Section 605.2 Amended; Receptacles.

Section 605.2 of the International Property Maintenance Code is amended to read as follows:

605.2 Receptacles. Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Beginning August 29, 2016, every bathroom receptacle shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location. (Ord. 20258 §5; October 19, 2015).

21.05.470 Section 605.3 Amended; Lighting Fixtures.

Section 605.3 of the International Property Maintenance Code is amended to read as follows:

605.3 Lighting fixtures. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture. (Ord. 19349 §47; March 1, 2009).

21.05.480 Section 606 Deleted; Elevators, Escalators and Dumbwaiters.

Section 606 of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §48; March 1, 2009).

21.05.490 Section 702.1 Amended; Means of Egress; General.

Section 702.1 of the International Property Maintenance Code is amended to read as follows:

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code, as adopted by the City. (Ord. 19349 §49; March 1, 2009).

21.05.500 Section 702.3 Amended; Means of Egress; Locked Doors.

Section 702.1 of the International Property Maintenance Code is amended to read as follows:

702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware

conforms to that permitted by the International Building Code, as adopted by the City. (Ord. 19349 §50; March 1, 2009).

21.05.510 Section 704 Amended; Fire Protection Systems.

Section 704 of the International Property Maintenance Code is amended to read as follows:

SECTION 704
FIRE PROTECTION SYSTEMS

[F] 704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times as determined by the Bureau of Fire Prevention with the City and in accordance with the International Fire Code, as adopted by the City.

[F] 704.1.1 Automatic sprinkler systems. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

[F] 704.2 Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in all residential occupancies at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. Beginning August 29, 2016, in each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code, as adopted by the City.

[F] 704.3 Power source. In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

[F] 704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed, except as follows:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes. (Ord. 20258 §6; October 19, 2015: prior Ord. 19349 §51; March 1, 2009).

21.05.520 Appendix A Deleted; Boarding Standard.

Appendix A of the International Property Maintenance Code is hereby deleted. (Ord. 19349 §52; March 1, 2009).

CHAPTER 23.10

ELECTRICAL CODE

Sections:

23.10.010	**Adoption of the National Electrical Code, 2014 Edition.**
23.10.020	**Citation of Code.**
23.10.025	**Definitions.**
23.10.030	**Administration.**
23.10.040	**Defective or Improperly Operating Electrical Equipment; Notice to Owner; Discontinuance of Electrical Service.**
23.10.050	**Right of Entry.**
23.10.060	**Building Official and Authorized Representative Relieved From Personal Liability.**
23.10.070	**Bypassing Electric Revenue Meters.**
23.10.080	**Severability.**
23.10.090	**Penalty.**
23.10.100	**Electrical Advisory and Appeals Board; Creation.**
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23.10.120	**Appeals from Decision, Notice, or Order of Building Official.**
23.10.130	**Scope.**
23.10.140	**Permits Required.**
23.10.150	**Issuance of Permit.**
23.10.160	**Installation by Homeowner.**
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23.10.200	**Registration of City and State Electricians of All Classes.**
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23.10.280	**Wiring of Temporary Construction Walkways.**
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23.10.300	**Services, Disconnects, Sub-Feeders and Metering Requirements.**
23.10.510	**Code Coordination.**
23.10.520	**Permit Fees.**
23.10.530	**Electrical Code Task Force Created.**

23.10.010 Adoption of the National Electrical Code, 2014 Edition.

Except as hereinafter provided, the National Electrical Code (2014 edition), hereinafter the National Electrical Code, sponsored by the National Fire Protection Association under the auspices of the American National Standards Institute, is hereby adopted as the minimum wiring standard for the City of Lincoln. Three printed copies of this document have been filed in the office of the Director of Building and Safety of the City of Lincoln for the use of and examination by the public. The City Clerk shall maintain one printed copy of this document, in book form, with the official records of the city. (Ord. 20255 §1; October 19, 2015: prior Ord.

19557 §1; June 20, 2011: Ord. 19217 §1 March 9, 2009: Ord. 18012 §1; June 7, 2002: Ord. 17521 § 1; July 6, 1999: Ord. 17049 §1; August 19, 1996; Ord. 16384 §1; June 14, 1993: Ord. 15580 §1; June 4, 1990: Ord. 14837 §21; February 29, 1988: Ord. 14228 §1; September 30, 1985).

23.10.020 Citation of Code.

This ordinance shall be known as the "Lincoln Electrical Code," and may be cited as such and will be referred to herein as "this code." The word "shall" as used in this ordinance indicates a mandatory rule. (Ord. 14228 §2; September 30, 1985).

23.10.025 Definitions.

For the purposes of this chapter, the terms herein shall be defined as follows:

Building Official shall mean the Director of the Department of Building and Safety, the Chief Electrical Inspector, or his or her designee.

Chief Electrical Inspector shall mean the supervising inspector as designated by the Director.

Department shall mean the Department of Building and Safety.

Detached Single Family Residence shall mean a single-family structure that is not attached to other living units. This definition shall not include townhouses, condominiums, mobile homes, duplex dwelling units, and multi-family dwellings and similar dwelling units.

Director shall mean the duly appointed Director of the Department of Building and Safety.

Electrical Contractor shall mean a person licensed as an Electrical Contractor pursuant to the laws of the State of Nebraska.

Electric Revenue Meter shall mean the device or devices including all auxiliary equipment, wire and wiring of necessary equipment to measure and register an electrical quantity (energy demand and reactive power) that is supplied by an electric utility at the customer service point. This meter is for the purpose of rendering an electric bill.

Homeowner shall mean a non-licensed individual performing an electrical installation pursuant to Section 23.10.160 of this code.

LES shall mean Lincoln Electric System.

Special Permission, as used in the NEC and this code, shall mean having the consent of the Chief Electrical Inspector or a Certified Electrical Inspector.

Utility shall mean Lincoln Electric System or Norris Public Power District. (Ord. 20255 §2; October 19, 2015).

23.10.030 Administration.

The Director of Building and Safety, hereinafter designated as "Building Official," or an authorized representative of the Building Official, is hereby authorized and directed to enforce the provisions of this code. (Ord. 15580 §2; June 4, 1990: prior Ord. 14837 §22; February 29, 1988: Ord. 14228 §3; September 30, 1985).

23.10.040 Defective or Improperly Operating Electrical Equipment; Notice to Owner; Discontinuance of Electrical Service.

(a) The Building Official shall examine or cause to be examined any electrical equipment within or on any building or premises reported to be defective or in improper operating condition. If such equipment is found to be defective or in improper operating condition so as to constitute a danger to persons or property, the Building Official shall give to the owner of such building or premises written notice stating the deficiencies found to exist. This notice shall require the owner or person having charge or control of such building or premises, to commence work to correct such deficiencies, and all such work shall be completed within the time frame set forth in said notice.

Proper service of such notice shall be by personal service upon the owner of record or by certified mail to said owner's last known address. The designated period within which said owner or persons having charge or control is required to comply with the order of the Building Official shall begin as of the date said owner receives such notice. In cases where the owner cannot be reached, refuses to reply, or refuses to comply with the directions given in the notice, the provisions of part (b) shall take precedence.

(b) The Director of Chief Electrical Inspector are hereby vested with the authority to order the discontinuance of electrical service to any building or premises where such deficiencies in electrical equipment have not been corrected within the time specified by such notice, or said owner refuses to comply with the direction given in the notice in accordance with sections (a). In instances where the deficiencies constitute a danger to persons or property, the Director or Chief Electrical Inspector are hereby vested with the authority to immediately disconnect the electrical service to said building or property. Existing installations shall not be deemed a deficiency, provided the wiring when originally completed was installed in accordance with the provisions of the electrical code then in force and has been maintained in that condition. (Ord. 20255 §3; October 19, 2015: prior Ord. 15580 §3; June 4, 1990: Ord. 14228 §4; September 30, 1985).

23.10.050 Right of Entry.

(a) Whenever necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this code, or whenever the Building Official has reasonable cause to believe there exists within or on any building or premises any equipment, as defined in this code, which makes such building or premises dangerous, hazardous, or unsafe for any reason specified in this code, or that work is being done or has been done in violation of this code, including work being done without a permit or work being done by an unlicensed person or persons, then the Building Official is hereby authorized to enter within or on such building or premises at any reasonable time to inspect the same and perform any duty imposed upon the Building Official by this code; provided, that (1) if such building or premises be occupied, the Building Official shall first present proper credentials to the occupant and request entry, explaining their reasons therefor, and (2) if such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of such building or premises and request entry, explaining their reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of such building or premises cannot be found after due diligence, the Building Official shall have recourse to every process provided by law to secure lawful entry and inspect such building or premises. (Ord. 20255 §4; October 19, 2015: prior Ord. 15580 §4; June 4, 1990: Ord. 14228 §5; September 30, 1985).

23.10.060 Building Official and Authorized Representative Relieved From Personal Liability.

The Building Official or an authorized representative charged with enforcement of this code, when acting in good faith and without malice, are hereby relieved from all personal liability for any damage that may accrue to any person or property as a result of any act required by this code, or by reason of any act or omission of the Building Official or an authorized representative in the discharge of their duties hereunder. Any suit brought against the Building Official or an authorized representative, because of any such act or omission in the enforcement of this code, shall be defended by the City Law Department until final determination of such proceedings. (Ord. 15580 §5; June 4, 1990: prior Ord. 14228 §6; September 30, 1985).

23.10.070 Bypassing Electric Revenue Meters.

(a) Any person, firm, or corporation who by-passes the electric revenue meter shall be deemed in violation of this code. Proper metering and overcurrent protection shall be installed immediately or the service entrance conductors shall be disconnected.

(b) It shall be deemed a violation of this code for any person, firm, or corporation to tap any metered conductor of another for the purpose of theft of power.

(c) It shall be unlawful for any seller of electric power to continue to sell electric power to any person, firm, or corporation described in subsection (a) above, unless the required service equipment and meter are installed as provided therein. (Ord. 19557 §2; June 20, 2011: prior Ord. 16384 §2; June 14, 1993: Ord. 14228 §7; September 30, 1985).

23.10.080 Severability.

(Repealed by Ord. 20255 §5; October 19, 2015: prior Ord. 14228 §8; September 30, 1985).

23.10.090 Penalty.

(a) It shall be unlawful for any person, firm, or corporation upon whom a duty is placed by the provisions of this code to fail or to neglect to comply with the provisions of this code.

(b) Electrical equipment installed and/or connected to a source of electrical power by any person without a permit issued as set forth in this code, or any person, firm, corporation, or other entity causing any person to install and/or connect electrical equipment to a source of electrical power in violation of the provisions of this code shall be deemed in violation of this code and shall be subject to the penalties as set forth in this section.

(c) Any person, upon whom a duty is placed by the provisions of this code who shall fail, neglect or refuse to perform such duty or who shall violate any of the provisions of this code shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine of not to exceed $500.00 recoverable with costs, or both, except that each person so convicted shall be fined in a sum of not less than $200.00 for the first offense, not less than $250.00 for the second offense, and not less than $300.00 for the third offense and each offense thereafter. Each day a violation of any provision of this code continues to exist shall constitute a separate offense.

(d) For any case of non-compliance of the rules set forth in this code a "notice of violation" may be issued to any and all parties by the Building Official, and forwarded to the City Attorney's office for prosecution or such other action as the City Attorney may deem appropriate. Regardless of or in addition to any penalties or fines applied in this section, fees as prescribed in section 23.10.520 shall also apply. (Ord. 20255 §6; October 19, 2015: prior Ord. 16384 §3; June 14, 1993: Ord. 14228 §9; September 30, 1985).

23.10.100 Electrical Advisory and Appeals Board; Creation.

There is hereby created an Electrical Advisory, Appeals, and Examining Board which shall consist of six members and shall be referred to herein as the Electrical Board.

Membership on the Electrical Board shall consist of the following:

(a) The Director of the Department of Building and Safety, as an ex officio member, but not counted for quorum purposes;

(b) The Chief Electrical Inspector for the City of Lincoln;

(c) A registered professional electrical engineer who has passed the State of Nebraska electrical engineer's examination and is a representative from industry or business;

(d) A registered professional engineer who has passed the State of Nebraska engineer's examination and is a representative from the Lincoln Electric System;

(e) One registered State of Nebraska licensed Electrical Contractor residing in the City of Lincoln;

(f) One registered State of Nebraska licensed Electrical Contractor residing in the City of Lincoln and actively engaged in the electrical contracting business.

The registered professional electrical engineers and the registered Electrical Contractors shall be appointed by the Mayor with the concurrence of the City Council for staggered terms of three years each. Vacancies on the board shall be filled by appointment for the unexpired term only. The Chief Electrical Inspector shall be the permanent secretary of the board and shall keep a record of all meetings. (Ord. 20255 §7; October 19, 2015: prior Ord. 15580 §6; June 4, 1990: Ord. 14228 §10; September 30, 1985).

23.10.110 Electrical Board; Authority and Duties.

The Electrical Board shall:

(a) Advise the Mayor regarding the determination of the suitability of alternate materials and methods of installation, and the reasonable interpretations of the provisions of this code. The board shall make recommendations to the Mayor at the Mayor's request. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all recommendations in writing to the Mayor.

(b) Have power and authority to adopt necessary rules and regulations consistent with the provisions of this code for the application for registration, and suspension or revocation of registration as provided in this code. Any such rules and regulations or amendments thereto shall be approved by the Mayor. The Electrical Board shall determine in the rules the necessary minimum qualifications for applicants for registration. Registrations shall not be granted to individuals who do not met or comply with these regulations.

(c) Have power and authority to hear and determine appeals by any person who is aggrieved by a decision, notice, or order of the Building Official under this code.

(d) Hold an annual meeting on the third Wednesday in February of each year, at which meeting a chairperson shall be elected for the ensuing year.

(e) Hold special meetings upon the call of the chairperson, the Chief Electrical Inspector, or upon a written request signed by two of its members and filed with the secretary. (Ord. 20255 §8; October 19, 2015: prior Ord. 15580 §7; June 4, 1990: Ord. 14228 §11; September 30, 1985).

23.10.120 Appeals From Decision, Notice, or Order of Building Official.

(a) Any person who is aggrieved by a decision, notice, or order of the Building Official under this code may appeal such decision to the Electrical Board by filing such appeal within fifteen days from the date of such decision. Upon request, the Building Official shall furnish such aggrieved person with an appeal form, which, upon completion and filing within the prescribed time and payment of the prescribed fee, shall be sufficient for the purpose of commencing an appeal proceeding hereunder.

(1) A $100.00 fee for review of a decision of the Building Official interpreting a provision or provisions of this code;

(2) A $100.00 fee for review of a decision of the Building Official concerning the suitability of alternate materials or types of installation.

(b) The Building Official shall refer all properly and timely filed appeals to the Electrical Board for hearing. The secretary of said board 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. Such notice shall be served upon the appellant by personal service or registered mail.

(c) 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 board members, 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 evidence.

(d) The Electrical Board shall then within a reasonable time after the hearing render a written decision which shall state its findings and conclusions. Decisions of the Electrical Board may be appealed as provided by law.

(e) 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 persons or property. (Ord. 20255 §9; October 19, 2015: prior Ord. 19557 §3; June 20, 2011: Ord. 15580 §8; June 4, 1990: Ord. 14228 §12; September 30, 1985).

23.10.130 Scope.

(a) The provisions of this code shall apply within the corporate limits of the City of Lincoln and within three miles thereof. This code covers the installation of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables including, but not limited to the following classes:

(1) Public and private premises, including buildings, structures, mobile homes, and floating buildings.

(2) Yards, lots, parking lots, carnivals, and electrical substations, except for electrical substations under the exclusive control of LES.

(3) Installations of conductors and equipment that connect to a supply of electricity.

(4) Installations used by LES, such as office buildings, warehouses, garages, machine shops, and recreational buildings, that are not an integral part of the generating plant or a substation under the exclusive control of LES.

(5) Non-LES owned or maintained meter socket, auxiliary metering equipment enclosure, and associated interconnecting conduit shall be subject to this code. Meter enclosures and auxiliary metering equipment enclosures in non-LES generation, transmission, and distribution facilities shall be subject to this code even if partial or full generation is sold to LES.

(6) Fire alarm and emergency systems regardless of operating voltage.

(b) The provisions of this code shall not apply to the following:

(1) Installations in ships, watercraft (other than floating buildings), railway rolling stock, aircraft, automotive vehicles, or the original construction of manufactured or mobile homes and recreational vehicles.

(2) Installations underground in mines.

(3) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes.

(4) Installations of communication equipment under exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such installations.

(5) Installations under the exclusive control of LES where such installations:

(a) Consist of service drops or service laterals.

(b) Are on property owned or leased by LES for the purpose of communications, generation, control, transformation, transmission, or distribution of electric energy in buildings used exclusively by LES for such purposes or located outdoors on property owned or leased by LES, or on public highways, streets, roads, or other public ways, or outdoors by established rights on private or public property.

(c) Include meters, auxiliary metering equipment, wiring, and associated metering enclosures under the exclusive control of LES for the sole purpose of monitoring the electric utility system or for interchange and/or billing for electric power between utilities.

(d) Electric revenue meter, auxiliary metering equipment, meter sockets/ enclosures owned, maintained, and wired by and under the exclusive control of LES. (Ord. 20255 §10; October 19, 2015: prior Ord. 17049 §2; August 19, 1996: prior Ord. 16384 §4; June 14, 1993: Ord. 15580 §9; June 4, 1990: Ord. 14228 §13; September 30, 1985).

23.10.140 Permits Required.

(a) No person, firm, or corporation other than a registered electrical contractor, journeyman electrician, residential journeyman electrician, apprentice of an electrical contracting company, or homeowner under certain conditions set forth in Section 23.10.160 shall install, alter, or add to any electrical equipment, and no such installation, alteration or addition shall be made without first obtaining a permit therefor from the Building Official. Permits may be issued only to registered electrical contractors or homeowners, in accordance with Section 23.10.160 and registered State of Nebraska licensed fire alarm installers for the low voltage portion of fire alarm systems only.

(b) No permit, license, or registration shall be required to execute any of the following classes of electrical work:

(1) Routine maintenance requiring the repair or replacement of existing electrical apparatus and equipment of the same size and type for which no changes in wiring are made. The replacement of permanently wired fixed-in-place appliances including, but not limited to, furnaces, air conditioners, garbage disposals, dishwashers and water heaters shall not be considered as routine maintenance and shall be subject to permit requirements.

(2) The installation, alteration, or repair of electrical equipment for the operation of signals or the transmission of electronic signals or data by wire.

(3) The installation, alteration, or repair of electrical equipment installed by or for LES for the use of LES in the generation, transmission, or distribution of electricity, and shall include meters and associated metering enclosures under the exclusive control of LES for the sole purpose of monitoring the electric utility system or for the interchange and/or billing for electric power between electric utilities.

(4) The installation, alteration, or repair of electric revenue meters, auxiliary metering equipment, meter sockets/enclosures owned, maintained, and wired by and under the exclusive control of LES.

(5) Installation, alteration, or repair made to electrical equipment, where such equipment operates at a voltage not exceeding fifty volts, except emergency alarm systems and other installations specifi-

cally referred to in this code. This shall not be construed as preemption of National Electrical Code Requirements for low voltage systems.

(6) Any work involved in the manufacture, test, or repair of electrical materials, devices, appliances, or apparatus, but not including any permanent wiring other than that required for testing purposes.

(7) Repair or replacement of motors on fixed approved appliances of the same type and rating in the same location.

(8) The adjustment, repair, or maintenance of appliances designed to consume natural or artificial gas, fuel oils, or coal; provided, this exception shall not permit the replacement of an existing motor with one of a different rating.

Nothing in this subsection shall be construed to exempt any person, firm, or corporation from compliance with the standards prescribed by this code for the installation of electrical equipment, or from inspection as provided herein. (Ord. 20255 §11; October 19, 2015: prior Ord. 19557 §4; June 20, 2011: Ord. 19217 §2; March 9, 2009: Ord. 17049 §3; August 19, 1996: Ord. 15580 §10; June 4, 1990: Ord. 14228 §14; September 30, 1985).

23.10.150 Issuance of Permit.

Applications for permits to install, alter, or add to electrical equipment shall be on forms furnished for that purpose by the Department and shall contain all information necessary to the lawful enforcement of the provisions of this code. Each application shall be accompanied by such plans and specifications as are required by the Department to determine that the work proposed conforms to the requirements of this code. The approval of any plans and/or specifications shall not be construed to sanction any violation of this code.

When the Building Official determines that the information on an application is in conformance with this code, the Department shall issue a permit upon receipt of the permit fees hereinafter prescribed. No permit holder shall deviate materially from any approved plans or specifications or fail, neglect, or refuse to comply therewith, unless permission to do so has been obtained from the Building Official or an authorized representative.

The issuance of a permit based upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or preventing the initiation or continuance of work thereunder when in violation of this code or any other ordinance. (Ord. 20255 §12; October 19, 2015: prior Ord. 19557 §5; June 20, 2011: Ord. 17049 §4; August 19, 1996: Ord. 15580 §11; June 4, 1990: Ord. 14228 §15; September 30, 1985).

23.10.160 Installation by Homeowners.

Homeowners may install electrical branch circuit and feeder wiring only, in a stand alone detached single family dwelling which they currently own and occupy as their principal residence. This shall include any ancillary structures located on the same property.

The electrical branch circuit and feeder wiring for the following shall not be installed by homeowners:

(1) Swimming pools, hot tubs, and similar equipment, including all associated components. Where a building permit is required to accommodate the installation of said equipment all electrical wiring associated with the permitted work must be installed and completed by an electrical contractor.

EXCEPTION: Hydro-massage bathtubs for residential use as referenced in article 680 of the National Electrical Code.

(2) Alternate or standby energy systems such as generators, wind, photovoltaic, fuel cell, or any other electrical energy producing system that is intended to use any part of a premise wiring system, or a utility connection for the transfer of the electrical energy produced by such systems.

(3) Electrical wiring and equipment for all home based businesses and occupations such as those allowed or defined in accordance with Chapter 27 of the Lincoln Municipal Code.

NOTE: Branch circuit and feeder wiring allowed under this section does not include service equipment. Homeowners shall not perform upgrades, replacements, or repairs of this type.

Electrical wiring installed by homeowners shall be for themselves, without compensation or pay from or to any other person for such labor or installation. Such installation by a homeowner shall comply with the requirements of this code, and said applicant in exercising this privilege shall not constitute or be considered as an electrical contractor. The applicant shall be required to demonstrate knowledge of code requirements, apply for and secure a permit, pay the required permit fees for homeowners in accordance with Section 23.10.520 of this code, and call for all inspections in the manner provided by this code. A homeowner may

obtain a permit for the inspection of equipment installed under an expired permit that had never been inspected only if the original installation was completed by the applicant of the expired permit. In instances where work was not completed by the original applicant, the homeowner must retain a licensed electrical contractor to obtain the necessary permit for inspection and ensure the installation is complete and complies with all electrical codes.

The Department may deny the issuance of electrical permits to homeowners under any one of the following circumstances:

(a) There is reason to believe the proposed electrical work will be done by someone other than the homeowner;

(b) There is reason to believe the property is or will be sold on the completion of the electrical work. For the purposes of this subsection (b) there is a rebuttable presumption that the property is or will be sold on the completion of the electrical work if the applicant, within the prior five years, has sold his or her home and the electrical work for said home was performed by the applicant under a homeowner permit.

(c) Previous homeowner permits have not been completed in compliance with this code;

(d) The homeowner is temporarily residing in the home.

If a homeowner is found to have at any time violated or falsified any of the above items, they shall immediately cease all electrical work, forfeit the permit, and secure the services of a registered electrical contractor to complete the electrical work in compliance with the code.

Required inspections may be requested on any regular business day. If the request cannot be accommodated, the inspector shall contact the applicant to reschedule the inspection. The applicant, if unable to be present during the normal working hours of a day, shall be required to supply a key or other means of access for the inspection to be performed. (Ord. 20255 §13; October 19, 2015: prior Ord. 19557 §6; June 20, 2011: Ord. 19217 §3; March 9, 2009: Ord. 17049 §5; August 19, 1996: Ord. 16384 §5; June 14, 1993: Ord. 15580 §12; June 4, 1990: Ord. 14228 §16; September 30, 1985).

23.10.170 Inspections, Conducted by Building Official.

The Building Official or an authorized representative are hereby authorized to make such inspections and take such action provided by law as may be necessary to enforce the provisions of this code. (Ord. 15580 §13; June 4, 1990: prior Ord. 14228 §17; September 30, 1985).

23.10.180 Inspections, Required.

The installation, alteration, or addition to any electrical equipment for which a permit is required shall be subject to inspections and/or approval by the Building Official. (Ord. 20255 § 14; October 19, 2015: prior Ord. 15580 §14; June 4, 1990: Ord. 14228 §18; September 30, 1985).

23.10.190 Inspections, Request for.

Inspections required under the provisions of this code shall be requested by the person, firm, corporation or authorized representative of the person holding the permit for such work. Such request shall be made in accordance with all procedures for inspection requests as established by the Department. All requests for inspection must include the permit number, electrical contractor or homeowner's name, address and suite number, if applicable, and means of access. Appointments for required inspections shall not be made with the exception that inspection requests may be scheduled for a given day. It shall be the duty of the person requesting inspection of electrical equipment to provide access to and a means for proper inspection of such equipment. The person requesting final inspection shall determine that the electrical equipment is operational before requesting such final inspection. In the event the electrical permit holder is intending for the owner of the property to request a final inspection, the permit holder shall provide the owner of the property with information on requesting a city inspection. The owner of the property shall have the duty of requesting the final inspection and providing access and a means for proper inspection. (Ord. 20255 §15; October 19, 2015: prior Ord. 19557 §7; June 20, 2011: Ord. 19217 §4; March 9, 2009: Ord. 18012 §2; June 17, 2002: Ord. 17521 § 2; July 6, 1999: Ord. 16384 §6; June 14, 1993: Ord. 15580 §15; June 4, 1990: Ord. 14228 §19; September 30, 1985).

23.10.195 Inspections, Procedures.

Pursuant to Section 23.10.170:

(a) No portion of any electrical equipment intended to be concealed by any permanent portion of a building including thermal insulation shall be concealed until inspected and/or approved by the Building Official. When the installation, alteration, or addition to any electrical equipment is complete, a final inspection request shall be made. Failure of the permit holder to schedule and request such final inspection shall be reason for withholding the issuance of further permits.

(b) When the Building Official finds an installation to not be in compliance with this code, the Building Official shall issue a correction order. The correction order shall be issued to the person, firm, or corporation holding the permit for the work. The order shall include a date when a final inspection shall be made. If required corrections have not been completed, or access to complete the inspection has not been provided, a reinspection fee shall be levied and arrangements shall be made to complete the work. If at the time of final inspection the installation has not been brought into compliance, a disconnection order may be issued by the Director or Chief Electrical Inspector.

(c) The requirements of this section shall not be considered to prohibit the temporary use of electrical energy for electric wiring, before final approval thereof when so authorized by the Building Official and with such restrictions upon such temporary use as may be necessary to ensure safety, secure compliance with all other provisions of this code, and facilitate inspection.

An electric revenue meter installed in the electric revenue meter socket and left unsealed shall be considered a temporary use of electrical energy under this section, where this temporary use is for the sole purpose of repairing, or replacing of electrical service equipment with a permit, until such time as it is inspected. Any electric revenue meter found not to be sealed where a permit has not been obtained for the repair or replacement of service equipment, shall be subject to disconnection upon notice to the user.

No temporary use of electrical energy shall be permitted in any case where a hazard to persons or property would be created.

(d) A final inspection certificate of approval may, upon notice, be revoked by the Building Official if it is found that the electrical equipment fails in any respect to comply with the requirements of this code, or that the installation is unsafe to persons or property. Corrections not made and approved by the Building Official in the allotted time shall be grounds for withholding further permits until corrections are made and approved by the Building Official. (Ord. 20255 §16; October 19, 2015: prior Ord. 19557 §8; June 20, 2011: Ord. 17049 §6; August 19, 1996: Ord. 16384 §7; June 14, 1993: Ord. 15580 §16; June 4, 1990).

23.10.200 Registration of City and State Electricians of All Classes.

(a) No person, firm, or corporation shall install, alter, or add to any electrical equipment, except such installations as are described in Section 23.10.160 within the corporate limits of the City of Lincoln and three miles thereof without first being registered to do so as hereinafter provided.

(b) Persons holding State of Nebraska Electrical Contractor Licenses, Journeyman Electrician Licenses, Residential Journeyman Electrician Licenses, registered state apprentices licenses, or State Fire Alarm Installer Licenses shall submit their state license or registration, and submit the insurance certificate herein required annually with the Building Official before performing any electrical work covered by this code. No electrical permits shall be issued to any state license holder until such registration and insurance certificate are approved. A registration fee in accordance with this code shall accompany all applications for registration. Electrical licenses, except those mentioned above, will not be recognized by the City of Lincoln as being in compliance with this code. City registrations of State licenses shall expire when the State license expires.

(c) Automatic registration. Any State of Nebraska licensed electrical contractor, journeyman electrician, residential journeyman electrician, electrician's apprentice, or state fire alarm installer duly registered at the time of the adoption of this code shall be automatically registered in the same classification under the provisions of this code.

(d) A valid registration or license of one or more of the classifications listed above shall be carried at all times while work is being executed. Any person checked and found to not be in possession of a valid registration or license shall be deemed in violation of this code, and shall immediately cease work and obtain said registration or license prior to engaging in further electrical installation.

(e) Registered electrical contractors may employ or supervise, or provide journeyman or residential journeyman supervision for apprentice electricians at a ratio not to exceed three apprentice electricians to one

licensee. (Ord. 20255 §17; October 19, 2015: prior Ord. 19557 §9; June 20, 2011: Ord. 17521 § 3; July 6, 1999: Ord. 17049 §7; August 19, 1996: Ord. 16384 §8; June 14, 1993: Ord. 15580 §17; June 4, 1990: Ord. 14228 §20; September 30, 1985).

23.10.210 Examination for City Registration.

(Repealed by Ord. 20255 §18; October 19, 2015: prior Ord. 17521 § 4; July 6, 1999: Ord. 15580 §18; June 4, 1990: Ord. 14228 §21; September 30, 1985).

23.10.220 Examination and Registration Fees.

(Repealed by Ord. 20255 §19; October 19, 2015: prior Ord. 19557 §10; June 20, 2011: Ord. 17079 §1; October 21, 1996: Ord. 17049 §8; August 19, 1996: Ord. 16384 §9; June 14, 1993: Ord. 15580 §19; June 4, 1990: Ord. 14228 §22; September 30, 1985).

23.10.230 Classification of City Registrations.

The classes of registration are as follows:

(a) An **electrical contractor** is hereby defined to be any person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, install, and supervise the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes, with the full responsibility of supervision, whether doing such work themselves or employing journeyman electricians, residential journeyman electricians, and apprentices to assist them, and is licensed by the State of Nebraska Electrical Board.

(b) A **journeyman** electrician is hereby defined to be any person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and supervise apprentice electricians, and is licensed by the State of Nebraska Electrical Board.

(c) A **residential journeyman electrician** is hereby defined to be any person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electric wiring, apparatus, and equipment for residential installations and to supervise apprentice electricians, and who is licensed by the State of Nebraska Electrical Board. For the purposes of this license the term residential shall mean installations for one, two, or multi-family dwellings not larger than three stories in height.

(d) An **apprentice electrician** is hereby defined to be any person other than an electrical contractor, a journeyman electrician, or a residential journeyman electrician who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical equipment as an employee of an electrical contractor. Any apprentice electrician who shall install, alter, or repair electrical equipment other than under the direct supervision and control and in the immediate presence of a registered electrical contractor, journeyman electrician, or residential journeyman electrician shall be deemed in violation of the provisions of this code.

Any electrical contractor, journeyman electrician, or residential journeyman electrician hereunder who shall permit or cause an apprentice electrician to install, alter, or repair electrical equipment other than as provided herein, shall be deemed in violation of the provisions of this code.

(e) A **fire alarm installer** is hereby defined to be any person having the necessary qualifications, training, and experience to plan, lay out, and install electrical wiring, apparatus, and equipment for only those components of fire alarm systems that operate at fifty volts or less and who is licensed by the State of Nebraska Electrical Board. Conductors and equipment operating at a potential of greater than fifty volts shall be installed only by a registered electrician.

Only licenses issued by the State of Nebraska Electrical Board and defined herein shall be recognized in the City of Lincoln. Anyone not obtaining a registration for these licenses prior to the commencement of any electrical work shall be deemed in violation of this code. (Ord 20255 §20; October 19, 2015: prior Ord. 17049 §9; August 19, 1996: Ord. 16384 §10; June 14, 1993: Ord. 15580 §20; June 4, 1990: Ord. 14228 §23; September 30, 1985).

23.10.240 Renewal of Registration.

All registrations provided for in this code shall expire on the date the corresponding State of Nebraska license expires. Renewals shall be accepted once an individual license holder has renewed their State License. Anyone not renewing their registration on or before the expiration date of their State License shall be deemed in violation of this code and shall be subject to any penalties, fines, or fees as prescribed in this code.

Existing City of Lincoln Electrical Licenses shall be deemed invalid after December 31, 2016. Holders of any such licenses will need to obtain the appropriate State of Nebraska license and register that State of Nebraska License with the City of Lincoln on or before December 31, 2016. (Ord. 20255 §21; October 19, 2015: prior Ord. 17049 §10; August 19, 1996: Ord. 16384 §11; June 14, 1993: Ord. 14228 §24; September 30, 1985).

23.10.250 Registration to be Used Only by Holder.

Any registered electrician of any class herein provided who allows his or her name to be used by another person, firm, or corporation, directly or indirectly, either to obtain a permit, or to install, alter, or add to any electrical equipment shall be deemed in violation of this code. (Ord. 17049 §11; August 19, 1996: prior Ord. 15580 §21; June 4, 1990: Ord. 14228 §25; September 30, 1985).

23.10.260 Suspension or Revocation of Registration.

The Electrical Board, upon the recommendation of the Director or Chief Electrical Inspector and after conducting a hearing as herein provided, shall have the power to suspend or revoke the registration of any registered electrician hereunder if the same was obtained by error or fraud, or if the holder thereof is shown to be no longer qualified, or if such holder fails to comply with the provisions of this code.

Where the Director or Chief Electrical Inspector has recommended suspension or revocation of a electrician's certificate of registration, the Director or Chief Electrical Inspector shall cause written notice to be served upon the registered electrician whose registration has been recommended for suspension or revocation, setting forth the time and place for a public hearing thereon. Such written notice shall be served by certified mail to the registrant's last known business address. At such hearing, the Electrical Board shall hear all parties concerned and afford them the following rights, among others:

(a) To call and examine witnesses on any matter relevant to the issues of the hearing;
(b) To introduce documentary and physical evidence;
(c) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
(d) To rebut the evidence against him or her; and
(e) To be represented by an attorney.

The Electrical Board shall then within a reasonable time after the hearing render a written decision, setting forth its findings and conclusions. In any instance where a registration is revoked or suspended, the holder of same shall not apply for a new registration until the reason or reasons for said revocation or suspension, as determined by the Electrical Board, have been corrected and the holder is once again qualified to be registered herein. Decisions of the Electrical Board are final unless appealed as provided by law. (Ord. 20255 §22; October 19, 2015: prior Ord. 14228 §26; September 30, 1985).

23.10.270 Certificates of Insurance; State of Nebraska Electrical Contractor and Fire Alarm Installer.

Before any registered electrical contractor or fire alarm installer as defined herein may be issued a permit to install, alter, or add to electrical equipment hereunder, such electrical contractor or fire alarm installer shall be required to:

(a) At all times maintain public liability insurance coverage for all claims arising out of all work in the City of Lincoln and within three miles of the corporate limits thereof done by or under the supervision of the electrical contractor or fire alarm installer 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 City Attorney, with a minimum combined single limit of $500,000.00 aggregate for any one occurrence on any job for which a permit is required under this code, provided the City of Lincoln shall be named an additional insured thereunder. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section.

(b) At all times keep on file with the Department 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 City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the city as an additional insured for the coverage required by subsection (a) of this section, 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 thirty days notice by mail to the Department before the insurer

may cancel the policy for any reason, and, upon request of the Department or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies.

Separate certificates of insurance showing the electrical contractor or fire alarm installer to be covered under one policy and the city to be covered under another policy may be deposited in lieu of a single certificate, at the option of the electrical contractor or fire alarm installer. All certificates of insurance shall provide that in the event of expiration or cancellation of any of said minimum insurance requirements, the City of Lincoln, Nebraska, shall be given at least thirty days advance written notice thereof. Any termination, reduction, or lapse of such insurance coverage shall automatically terminate the electrical contractor's or fire alarm installer's privilege to be issued permits under the provisions of this code, unless other insurance meeting the requirements of this section is provided and in full force and effect at the time of such expiration or cancellation. (Ord. 20255 §23; October 19, 2015: prior Ord. 15930 §3; July 29, 1991: prior Ord. 15580 §22; June 4, 1990: Ord. 14228 §27; September 30, 1985).

23.10.280 Wiring of Temporary Construction Walkways.

(Repealed by Ord. 19557 §11; June 20, 2011: prior Ord. 15580 §23; June 4, 1990: Ord. 14228 §28; September 30, 1985).

23.10.290 Installation Standards and Approved Wiring Methods.

(a) Approved metallic conduit, nonmetallic conduit, electric nonmetallic tubing, manufactured wiring systems specifically approved by the authority having jurisdiction, and approved wireway or cable tray shall be used in the installation of all electrical equipment in or on all other buildings, structures, tents, and premises than those enumerated in subsection (b) of this section. All wiring methods shall be electrically and mechanically continuous and shall incorporate a separate conductor for the purposes of equipment grounding. The above wiring methods shall also be acceptable for those occupancies listed in subsection (b) of this section. Flexible metal conduit may be used for fished-in connections, where flexibility or sound isolation is required and for extensions of approved raceway systems where their installation is not possible because of building requirements. Flexible metal conduit shall not be used as a general wiring method.

It is the intent of this section to require a substantial, approved raceway system in which conductors may be installed, excluding the low voltage portion of fire alarm systems. Those system shall be installed to comply with the requirements contained in the National Electrical Code.

(b) Nonmetallic sheathed cable may be used for the installation of all concealed electrical equipment within the following buildings:

(1) Single-family dwellings and associated outbuildings on the same property.

(2) Buildings now wired with metallic protected wiring which will be used in the future for dwelling purposes only.

(3) Multi-family dwellings (apartment houses) where each dwelling unit within such structure has individual distribution panels located in each unit; however, all feeders or subfeeders to each unit shall be installed in rigid metal conduit, intermediate metal conduit, electrical metallic tubing, or rigid nonmetallic conduit.

EXCEPTION: In existing structures only, service equipment and sub-panels may be located in a common area accessible to all occupants, provided individual dwelling unit home runs are routed in a raceway between the sub-panel and the unit.

A mounted or free standing microwave unit shall not be considered permanent provisions for cooking as required to meet the definition of dwelling unit.

The word "concealed" as used in this section shall mean protected from mechanical injury by being installed between or through holes bored in rafters, studding, floor joists, or being fished in the air voids in masonry walls or partitions of buildings.

(c) Electrical Metallic Tubing (EMT) shall not be used for direct earth burial. Where metallic raceways are installed in direct earth contact they shall incorporate either PVC coating or asphaltum protection.

(d) Branch circuit or feeder conductors No. 6 and smaller where installed within structures shall be copper.

(e) Alternate energy sources:

(1) Anyone seeking to install systems capable of co-generation or grid tie (interconnection) shall, prior to the installation of these systems, submit plans and specifications for such system to the Department and the interconnecting electric utility for review and approval.

(2) For all other systems; plans and specifications need not be submitted prior to the installation of said equipment. Such installations shall be subject to all applicable requirements contained in this code.

(f) For the purpose of conductor continuity the phase, grounded, and grounding conductors shall not be dependent upon device connections such as lamp holders, receptacles, etc.

(g) Fire separation between wiring methods in mixed occupancy structures shall be compliant with applicable building codes enforced by the Department.

(h) Section 210.12 and Section 406.4(D)4 of the 2014 National Electrical Code shall be enforced consistent with the requirements of the State of Nebraska's Electrical Division. (Ord. 20255 §24; October 19, 2015: prior Ord. 19557 §13; June 20, 2011: Ord. 19217 §5; March 9, 2009: Ord. 18012 §3; June 17, 2002: Ord. 17049 §12; August 19, 1996: Ord. 16384 §12; June 14, 1993: Ord. 15580 §24; June 4, 1990: Ord. 14228 §29; September 30, 1985).

23.10.300 Services, Disconnects, Sub-feeders and Metering Requirements.

Service disconnecting means shall contain the proper overcurrent devices, connected in series with the service conductors to adequately protect all ungrounded conductors from overload. Approved service equipment consisting of fuses or circuit breakers installed in line-meter-fuse sequence shall be used on all installations requiring main fusing of 200 amperes or less and less than 250 volts nominal. The defined service point for underground residential single family services both temporary and permanent shall be the line side of the electric revenue meter socket. For overhead single family residential services both temporary and permanent the utility point shall be the utility connection at the service head.

The service disconnect shall be mounted as close to the point of service entrance as possible. Each building or occupancy within a building having a service rated 200 amperes or less shall have one main disconnect. When more than one service or main disconnect is provided, per building or multi-occupancy building, said services or disconnects shall be placed immediately adjacent to each other, unless otherwise specifically authorized by the Building Official, and shall be clearly labeled in a permanent manner as to their voltage characteristics and the area or portion of the building or premises that is being served by each disconnect. If located inside a building, and not mounted on the outside wall directly opposite the point of entrance, the service conductors shall be enclosed in conduit or raceway encased with two inches of concrete, four inches of brick, or eight inches of hollow block or tile from the point of entrance to the service disconnect enclosure.

Liquidtight flexible metal conduit, flexible metal conduit, service entrance cables, liquidtight flexible nonmetallic conduit, and electrical nonmetallic tubing shall not be used as the wiring method for the installation of service entrance conductors.

Service entrance conductors and panel sub-feeder conductors except the equipment ground shall all be the same size and have an ampacity in accordance with Article 310 of the National Electrical Code for the maximum rating of the overcurrent device(s) or service.

EXCEPTION: For single family dwellings where the service lateral conductors are not installed by a utility.

Main bonding jumpers and grounding electrode connections as a general rule shall be installed and made in the main service disconnecting means. In all cases the bonding and grounding connections shall be accessible after installation is complete, except where specifically listed for the purpose. Connections shall not be made where a utility seal prevents the future maintenance and inspection of these terminations. In the case of multiple service disconnecting means listed and approved enclosures may be used for all grounding electrode connections and taps.

In general, electric revenue metering equipment shall be installed on the supply side of the service disconnect. Electric revenue meters on a building or structure shall be installed as per the serving utilities standards regarding heights and type of equipment used. Where the serving utility has no standard or regulation for this equipment, then all requirements contained in the National Electrical Code shall be complied with. All nonmetallic conduits for underground services or feeders, whether used as a sleeve for protection or installed as a complete raceway, shall incorporate expansion fittings to prevent damage to service equipment.

Potential reference and instrument transformer wires installed between service equipment or CT cabinets and the meter socket may extend up to twenty feet within a structure without raceway concrete encasement, provided the raceway is of rigid metal conduit. Runs of conduit for unfused metering conductors exceeding twenty feet shall be installed below grade, or be encased in not less than two inches of concrete, four inches of brick, or eight inches of hollow block or tile.

A permit shall be obtained for repairs of existing services where the meter seal has been cut, the meter socket is unfastened from the structure, the service conduits have been damaged, or the service drop is disconnected. For replacement of existing electrical services where currently located within a bathroom area, the service shall not be required to be relocated provided the service equipment has proper clearances that comply with the National Electrical Code. (Ord. 20255 §25; October 19, 2015: prior Ord. 19557 §14; June 20, 2011: Ord. 19217 §6; March 9, 2009: Ord. 17049 §13; August 19, 1996: Ord. 16384 §13; June 14, 1993: Ord. 15580 §25; June 4, 1990: Ord. 14228 §30; September 30, 1985).

23.10.510 Code Coordination.

The electrical contractor shall become familiar with the requirements of other codes (such as the International Building Code, International Mechanical Code, International Fire Code, and their adoptive ordinances) enforced in this jurisdiction, the provisions of which apply to electrical installations.

ADVISORY NOTE: See the Lincoln Building Code, Section 20.12.360 regarding requirements for smoke detectors in dwelling units. Contact the Lincoln Bureau of Fire Prevention for the requirements of the Lincoln Fire Code, Title 19, and Lincoln Fire Suppression Ordinance, Title 24, regarding exit lighting, fire alarm and emergency systems, and hazardous (classified) area classification. Contact the Mechanical Inspection Division regarding smoke detector requirements for air handling units of more than 2000 cfm. (Ord. 19217 §50; March 9, 2009; prior Ord. 17521 § 41; July 6, 1999: Ord. 17049 §51; August 19, 1996: Ord. 15580 §48; June 4, 1990: Ord. 14228 §51; September 30, 1985).

23.10.520 Permit Fees.

Before a permit to install, alter, or add to electrical equipment shall be issued, a fee for such permit shall be paid to the Building Official as set forth below. Said permit shall become valid for a period of ninety days from the date of issuance, and remain valid as long as work on the project is not abandoned for a period in excess of ninety days.

Where work for which a permit is required by this code is started prior to obtaining a permit, the fees hereinafter specified shall be doubled; however, the payment of such double fees shall not relieve any person, firm, or corporation from fully complying with the requirements of this code.

NOTE: Non-compliance fees as prescribed in the fee schedule may be levied in addition to the above penalty, but are not subject to doubling.

There shall be no refunds or credits given on any permit which has expired. All requests for refunds on permits shall be in writing to the Department of Building and Safety. All refunds shall be subject to a $20.00 processing fee. For partially completed permits, refund amounts shall be calculated by the total fee for items not yet inspected minus the $20.00 processing fee.

ELECTRICAL CONTRACTOR FEE SCHEDULE

The following fees shall be used for all registered electrical contractors:

PERMIT FEES:

Minimum Permit Fee Charge ..... $ 30.00

There is no minimum permit fee for supplemental permits for shortages occurring on the original permit, and for which the work has been inspected. Minimum permit fees shall apply to all work that has not been inspected.

For service equipment, service repairs, service rewires, temporary services, branch or sub-panels, and transfer switches the following fees shall apply by amperage per component:

0-200 amperes $35.00
201-400 amperes $50.00

401-800 amperes $75.00
801-1200 amperes $95.00
1201-2000 amperes $125.00
2001-3000 amperes $150.00
over 3000 amperes $200.00

Each additional meter $6.00

High voltage (>600v) equipment:
Terminations for equipment (each) $10.00

Wind and photovoltaic generation systems:
0 to 1.5KW $50.00
Over 1.5KW through 10KW $100.00
Over 10KW $150.00
Charger/converter/controller's (each) $20.00

Generator Systems:
Up to and including 10KW $25.00
Over 10KW through 25KW $50.00
Over 25KW through 100KW $75.00
Over 100KW through 250KW $125.00
Over 250KW $175.00

Transformers:
0 to 15 KVA $20.00
Over 15 through 75 KVA $50.00
Over 75 through 112 ½ KVA $100.00
Over 112 ½ KVA $150.00

Motors:
0 to 3 ..... $8.00
Over 3 through 10 HP $15.00
Over 10 HP $25.00

Exhaust Fans and Hoods:
Residential - Kitchen and Bathroom $3.00
Commercial - Kitchen $25.00
Commercial - Bathroom $5.00

Pole and Parking Lot Lighting:
Pole (each) $6.00
Luminaire for pole or parking lot lighting (each) $2.00

Each outlet for lighting, receptacles, switches, junction boxes $0.60

Each lighting fixture (for track lighting luminaires are counted separately) $0.60

Baseboard, cove, unit heaters, duct heater $6.00

Ceiling Fans $6.00

Smoke/CO detectors 120 volt hard wired/interconnected $1.00

Radiant Heating Cables and mats (per system) $30.00

Bathroom Hand Dryers $6.00

Signs (each) $25.00

Appliances or receptacles for same:
Disposal, Dishwasher, Dryer, Range, Furnace (Electric and Gas) Heat Pumps, Water Heaters, Air Conditioner, or receptacles for approved cord connected appliances of like nature (each) $6.00

Roof Top Units (RTU's) $10.00

Pool Bonding (equipment listed separately) $150.00

Hot Tubs or similar $75.00

Fountains and water features (equipment listed separately) $25.00

Hydro Massage Bathtub $25.00

Temporary Wiring (for other than construction purposes) $30.00

Miscellaneous:
(For inspection of apparatus for which no other fee is provided) $7.00

Fire Alarm Control Panel $35.00

Fire Alarm Devices and Signals:

1 - 15 devices $25.00
16 - 30 devices $50.00
31 - 50 devices $75.00
51 - 100 devices $100.00
Over 100 devices $125.00

Re-inspection fee:
Wrong address, work not complete, improper or no access for inspection, equipment that does not pass inspection $30.00

Non-compliance fees:
Fees for non-compliance shall be in addition to any penalties, fines, or fees prescribed elsewhere in this code. Non-compliance fees may be assessed by the Chief Electrical Inspector for the following:

Journeyman to apprentice ratio (for each employee working onsite) $200.00
Expired/Improper registration (per employee out of compliance) $200.00
Work done by non-licensed/non-registered persons $200.00
Failure to obtain required inspection $200.00
Failure to obtain permit $200.00

Examination Fee:
(All classes per examination) $100.00

Registration Fees:
The following registration fees are for a term of one year. (For two year registration of State Licenses the following fees would be double.)
State of Nebraska Master/Contractor $100.00
State of Nebraska Fire Alarm Installer $100.00
State of Nebraska Journeyman $25.00

Maintenance Electrician $100.00
City of Lincoln Master Electrician $100.00
City of Lincoln Journeyman Electrician $25.00
City/State Apprentice registration $15.00

HOMEOWNER FEE SCHEDULE

The following fees shall be used for all electrical applications by homeowners applying for electrical permits under section 23.10.160 of this code.

Each receptacle, switch, or other electrical device $1.00

Each lighting fixture $1.00

Each Smoke/CO detector 120 volt hard wired/interconnected $1.00

Ceiling Fans $5.00

Each electrical box: for switches, receptacles, lights, junctions etc $1.00

Exhaust Fans for Bathrooms and Kitchens $5.00

Appliances or receptacles for same (each) $10.00

Electric Furnace	Gas Furnace
Air Conditioner	Heat Pump
Dryer	Range
Garbage disposal	Dishwasher
Water Heater	Air Compressor
Welder	

Hydro Massage Bathtub $35.00

Electric Space Heating Cable and Mat systems $35.00

Branch or Sub panel (fed from main service) $50.00

Re-inspection Fee (see definition in licensed permit fee schedule) $35.00

Minimum Permit Fee $35.00

The following Fee Schedule shall become effective January 1, 2016.

Before a permit to install, alter, repair, or add to electrical equipment shall be issued, a fee for such permit shall be paid to the City of Lincoln, Department of Building and Safety as set forth below.

There shall be no refunds, credits, or inspections given on any permit which has expired. Any permit that has expired and was not requested to be inspected in accordance with this code will require a new permit to be issued prior to any inspection requests to complete said permit. For residential installations where a permit has been expired and the work was completed by the original applicant, a new permit shall be obtained by either a Licensed Electrical Contractor or the owner of the property to facilitate the inspection of the work done under the original permit. In cases where repair or replacement is necessary for the installation to be deemed code compliant, a Licensed Electrical Contractor shall be utilized. Where a permit is required by this code for said repairs, the Electrical Contractor responsible for these repairs shall obtain the necessary permit. For other permits that have expired and an inspection is required, a new permit reflecting the work to be inspected shall be obtained by a Licensed Electrical Contractor.

All requests for refunds on permits shall be in writing to the Department of Building and Safety. All refunds shall be subject to a $35.00 processing fee. For partially completed permits, refund amounts shall be calculated by the total fee for items not yet inspected minus the $35.00 processing fee. For instances where a

different contractor is obtained to complete or finish work that was started and permitted by another, the new contractor shall obtain a permit for all work to be inspected.

For existing permits where additional branch circuits need to be applied, these branch circuits may be added by applicants online for the branch circuit amounts. Where supplements to existing permits are applied for by paper application the minimum fee shall be applied as reflected in the fee schedule below.

ELECTRICAL CONTRACTOR FEE SCHEDULE

The following fees shall apply to registered electrical contractors:

Minimum Permit Fee **$35.00**
Branch circuit(s) and/or feeder(s) ..... $6.00 ea

For permit applications that contain only branch circuit and/or feeder work, the minimum fee shall include the first two $6.00 fees that apply to the electrical installation.

The following fees shall apply to applications for Temporary and Permanent service equipment of new, replacement, and repairs for these installations. Temporary services and associated branch circuits shall be applied for separately from all other applications.

0-200 amperes $35.00
201-400 amperes $50.00
401-800 amperes $95.00

For temporary and permanent service equipment over 800 amperes the fee shall be calculated at $95.00 plus $25.00 for every 100 amperes or fraction thereof over 800.

Fee for inspection of dormant services for the purpose of restoring power $35.00
Re-Inspection fee ..... **$50.00 ea**

A re-inspection fee may be assessed for the following:

Incorrect address on application
Address not posted on construction site
No access for inspection
Work not complete at time of inspection
Work not in compliance with code

Multiple inspections required to accommodate construction phasing where the permit fee does not cover the cost of multiple inspection trips. These additional fees shall be calculated as directed by the Chief Electrical Inspector.

Fire Alarm Systems:

Fire alarm control panel(s) ..... $35.00 ea
Devices ..... $1.00 ea

Where not replacing or installing control panels the number of installed or altered devices shall be used to determine permit fee. Where total number of devices is less than 35 the minimum permit fee shall apply.

Registration fees for State of Nebraska Electrical Licenses and Apprentice Electricians:

State of Nebraska Electrical Apprentice Registration $30.00
State of Nebraska Electrical Residential Journeyman $50.00
State of Nebraska Electrical Journeyman $50.00
State of Nebraska Electrical Contractor $250.00
State of Nebraska Fire Alarm Installer $100.00

For registration renewals submitted after December 31, of the expiring year, there will be a fifty dollar late fee added to those renewals. For new registrations that are obtained in even numbered years, the registration fee shall be one half of the amounts reflected above.

Non-compliance fees:
Fees for non-compliance shall be in addition to any penalties, fines, or fees prescribed elsewhere in this code. Non-compliance fees may be assessed by the Chief Electrical Inspector for the following:

Journeyman to apprentice ratio (for each employee working onsite)	$200.00
Expired/Improper registration (per employee out of compliance)	$200.00
Work done by non-licensed/non-registered persons	$200.00
Failure to obtain required inspection	$200.00
Failure to obtain permit	$200.00

HOMEOWNER FEE SCHEDULE

The following fees shall be used for all electrical applications by Homeowners applying for electrical permits under Section 23.10.160 of this code.

Minimum permit fee	$35.00

Branch circuit and feeder fees shall be in addition to the minimum fee.

New, extensions or modifications of branch circuits	$8.00 ea
Feeder for sub panel	$20.00 ea
Re-Inspection fee	$35.00
Owner requested inspection	$35.00
Inspection of Dormant Service	$35.00 ea

COST OF APPEAL PROCEDURES

See Section 23.10.120.
(Ord. 20255 §26; October 19, 2015: prior Ord. 19557 §15; June 20, 2011: Ord. 19217 §51; March 9, 2009: Ord. 18012 §23; June 17, 2002: Ord. 17521 § 42; July 6, 1999: Ord. 17049 §52; August 19, 1996: Ord. 16384 §43; June 14, 1993: Ord. 15580 §49; June 4, 1990: Ord. 14228 §52; September 30, 1985).

23.10.530 Electrical Code Task Force Created.

There is hereby created the Electrical Code Task Force which shall advise the Mayor of the suitability of alternate materials and methods of installation and reasonable interpretations of this code; review and recommend changes to this code; and provide such other advisory duties related to this code as may be deemed necessary by the Mayor. Appointments shall be made by the Mayor and shall run for three years each and all terms shall run concurrent with each other. Appointments for vacancies shall run only for the unexpired term. The Mayor may reappoint members as may be deemed appropriate and the Mayor may remove a member at any time. Each member shall serve without pay. Selection of officers, times and places for meetings, and other rules and procedures shall be as directed by the Mayor and set forth in an executive order. (Ord. 19963 §5; December 16, 2013).

CHAPTER 27.06

USE GROUPS

Sections:

27.06.010 Purpose and Scope.
27.06.020 Classification of Use Types.
27.06.030 Use Group Characteristics.
27.06.040 Designation of Uses.
27.06.050 Use Group Table.
27.06.060 Agriculture Use Group.
27.06.070 Household Living Use Group.
27.06.080 Group Living Use Group.
27.06.090 Utilities Use Group.
27.06.100 Civic Services Use Group.
27.06.110 Education and Instruction Use Group.
27.06.120 Office Use Group.
27.06.130 Retail Sales and Services Use Group.
27.06.140 Food and Drink Establishments Use Group.
27.06.150 Commercial Recreation and Entertainment Facilities Use Group.
27.06.160 Major Entertainment and Event Use Group.
27.06.170 Heavy Commercial Services Use Group.
27.06.180 Manufacturing, Processing, Storage and Distribution Use Group.
27.06.190 Waste Management and Extractive Services Use Group.

27.06.010 Purpose and Scope.

In order to carry out the purposes and provisions of this title, the main uses of buildings and premises have been classified and combined into use groups based on common functional and physical characteristics ("Use Groups"). The classification of uses of buildings and premises into Use Groups provides a systematic basis for assignment of present and future use types to zoning districts. (Ord. 19733 §3; June 25, 2012).

27.06.020 Classification of Use Types.

(a) Considerations.

(1) Main uses of a building or premises (sometimes referred to in this Title as "use types") are assigned to the Use Group whose description most closely describes the nature of the main use. The main use may have one or more accessory uses. The use of a building or premises for more than one main use is addressed in subsection (b) below. Accessory uses are addressed in subsection (c) below.

(2) The Building Official shall prepare and maintain an up-to-date list of common uses included within each use group ("List of Use Group Types"). When any proposed use is not listed on the List of Use Group Types, the Building Official shall make a determination as to what Use Group the proposed use will be assigned to. If a building or premises is used for two or more main uses, each use shall be classified in the Use Group whose description most closely portrays the nature of such uses. The Building Official's classification of a use is subject to the right of appeal to the Board of Zoning Appeals pursuant to Section 27.75.030. The following items shall be considered when determining what Use Group a main use is classified in, and whether the activities associated with the main use constitute an accessory use:

(i) The description of the activity in relationship to the characteristics of each use group;
(ii) The relative amount of site or floor space and equipment devoted to the activity;
(iii) Relative amounts of sales from each activity;
(iv) The customer type for each activity;
(v) The relative number of employees in each activity;
(vi) Hours of operation;

(vii) Building and site arrangement;
(viii) Vehicles and/or machinery used with the activity;
(ix) The relative number of vehicle trips generated by the activity;
(x) Whether the activity would be likely to be found independent of the other activities on the site.
(xi) Off-site impacts

(b) More Than One Main Use.

(1) When a building or premises has more than one main use, each main use shall comply with the regulations of the zoning district in which the use is located.

(2) More Than One Main Building or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District. A lot or tract located in the R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 district may have more than one main building or use, but only when such buildings or uses conform to all open space requirements for the district in which the lot or tract is located. The exception is that no more than two single-family dwellings may be on a lot or tract. In addition, in the R-5, R-6, R-7, and R-8 districts, the lot or tract must meet the minimum lot requirements and conditions in said district for each main building or use.

(3) Two or More Buildings for Two-family Dwellings, Multiple-family, or Institutional Purposes. In the event that a lot or tract located in the R-1 through R-4 zoning district is to be occupied under a special permit or planned unit development by a group of two or more buildings to be used as a unit for any combination of two-family dwellings, multiple-family dwelling, or institutional purposes, there may be more than one main building on the lot; provided, however, that the open space between buildings shall have a minimum dimension of twenty feet, unless modified by the approval of a special permit or planned unit development. In addition, the lot or tract must meet the height and area regulations in said district for each main building or use except yards, average lot width, and height may be modified by of approval for such use under the special permit or planned unit development.

(4) Multiple Dwelling Considered as One Building. For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one building occupying one lot.

(c) Accessory Uses.

(1) Accessory uses permitted in each district are accessory buildings and uses customarily incident to any of the permitted uses, permitted conditional uses, or permitted special uses in the district unless stated otherwise in the regulations.

(2) Construction and Use of Accessory Buildings. No accessory buildings shall be constructed upon a lot until the construction of the main building has been commenced, and no accessory buildings shall be used for dwelling purposes, except that in the AG, AGR, and R-1 zoning districts, an accessory building may be used for dwelling purposes by not more than two domestic employees employed entirely on the premises if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63.

(3) Unless otherwise stated, accessory uses are subject to all applicable regulations of the main use.

(4) Production, manufacture, distribution, and storage of toxic, radioactive, flammable, or explosive materials, including chemicals and gases, fireworks, and explosives, except fireworks, shall be allowed in connection with a permitted commercial, business, or industrial purpose as incidental to the referenced permitted use without the requirement of obtaining a special permit.

(5) Early childhood care facilities and schools are not a permitted accessory use to a church in the I-1 Industrial District.

(d) Occupancy of Basements and Cellars. No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed. (Ord. 19827 §2; February 25, 2013; prior Ord. 19733 §3; June 25, 2012).

27.06.030 Use Group Characteristics.

A brief summary is inserted at the beginning of each Use Group in this chapter to describe and clarify the basic characteristics of the use types and activities that may occur within that Use Group. (Ord. 19733 §3; June 25, 2012).

27.06.040 Designation of Uses.

(a) Permitted Uses. Permitted Uses are all use types within each Use Group which are allowed by right within a designated zoning district in conformance with applicable regulations in this Title and are not classified as a permitted conditional use or permitted special use.

(b) Permitted Conditional Uses. Permitted Conditional Uses are those use types within each Use Group which, due to the unique nature of the use and/or impact of the use on the community, are only allowed within a designated zoning district in conformance with the specific conditions for said use set forth in Chapter 27.62 and any other applicable regulations in this Title.

(c) Permitted Special Uses. Permitted Special Uses are those use types within each Use Group which, due to the unique nature of the use and/or impact of the use on the community, are only allowed within a designated zoning district upon approval of a special permit in conformance with the requirements of Chapter 27.63 and any other applicable regulations of this Title.

(d) Prohibited Uses. Prohibited Uses are those use types within each Use Group which are not allowed within a designated zoning district due to the incompatibility of the use to permitted, permitted conditional, and permitted special uses within that zoning district. (Ord. 19733 §3; June 25, 2012).

27.06.050 Use Groups Tables.

The Use Group Table set out under each Use Group in this chapter identifies those use types within that Use Group which are a permitted use, permitted conditional use, permitted special use, or prohibited use within each of the City's zoning districts.

Uses designated with a "P" are permitted uses.

Uses designated with a "C" are permitted conditional uses.

Uses designated with an "S" are permitted special uses.

Uses designated with an empty box are prohibited uses.

(Ord. 19733 §3; June 25, 2012).

27.06.060 Agriculture Use Group.

Characteristics: The Agriculture Use Group is characterized by activities that involve the practice of cultivating soil, producing crops, farming, raising livestock; training, producing, keeping, caring for, and/or selling of plants or animals in varying degrees and the preparation and marketing of the resulting product. These activities generally require more than 3 acres of land. Such uses include but are not limited to stables, riding academies, stock yards, sale barns, confined feeding facilities roadside stands for the temporary or seasonal sale of produce, pet cemeteries, agricultural attractions, urban gardens, farms, ranches, orchards, vineyards and wineries.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Agricultural Attraction	C																									
Confined feeding facilities	C																									
Farm wineries	S																									
Greenhouses	C	C			S													P	P		P	P	P	P	P	P
Heritage centers	S																									
Market gardens	S	S																								
Pet cemeteries (only allowed outside of City limits) (see 6.04.260)	C	C																								
Sale barn	S																							P	P	
Urban garden			C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
All other uses in this Use Group	P	P																						P	P	P

(Ord. 19827 §3; February 25, 2013: prior Ord. 19733 §3; June 25, 2012).

27.06.070 Household Living Use Group.

Characteristics: The Household Living Use Group is characterized by the residential occupancy of a dwelling unit by a household living independently. Tenancy is generally arranged on a month-to-month basis, or for a longer period. Such uses include but are not limited to single and two family dwellings, townhouses and multifamily dwellings units. Housing with paid supervision or care for residents is included under the Group Living Use Group.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Apartment hotels	S	S	S	S	S	S	S	S	P	P	P	C			C	C	C	P	P							
Connection of a single family dwelling	S	S	S	S	S	S	S	S	S	S																
Dwellings for caretakers, resident watchmen, and supervisory personnel employed and residing on premises															P	P	P	P	P	P	P	P	P	P	P	P
Dwellings for domestic employees in accessory buildings	S	S	S															P								
Elderly and Retirement Housing			S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	P	S							
Housing for the Handicapped			S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S							
Mobile home courts			S	S	S	S												P								
Mobile home subdivisions			S	S	S	S												P								
Multiple family dwellings	S*	S*	S*	S*	S*	S*	P	P	P	P	P	C	P		C	C	C	P	P							
Single-family dwellings	P	P	P	P	P	P	P	P	P	P	P	C	P	P	C	C	C	C	P							
Townhouses	S	S	S	S	S	S	P	P	P	P	P	C	P		C	C	C	P	P							
Two-family dwellings	S	S	P	P	P	P	P	P	P	P	P	C	P	P	C	C	C	C	P							
All other uses in this Use Group	P	P	P	P	P	P	P	P	P	P	P		P	P				P	P							

* Multiple dwellings (not including those approved as a permitted special use under a community unit plan) lawf ting in this district on the effective date of this title or on the effective date of a change of district boundaries from ano ng district to this district shall be considered nonstandard uses in conformance with the provisions of Chapter 27 withstanding any provision to the contrary, any enlargement, extension or reconstruction of such multiple dwellings shal ted to no more than the number of dwelling units licensed with Building and Safety on the effective date of this title o effective date of the change in district boundaries.

(Ord. 20211 §1; July 13, 2015: prior Ord. 19827 §4; February 25, 2013: Ord. 19733 §3; June 25, 2012).

27.06.080 Group Living Use Group.

Characteristics: The Group Living Use Group is characterized by the residential occupancy of a structure by a group of people who do not meet the characteristics of Household Living. Tenancy is generally arranged on a month-to-month basis, or for a longer period. Group Living may have common eating and social areas for residents. The residents may receive any combination or duration of care, counseling, training, or treatment. Such uses include but are not limited to dwellings for members of religious orders, convalescent home, nursing home, domestic shelters, assisted living facilities, fraternities and sororities, group homes and temporary shelters for the homeless.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Alternative to imprisonment facilities		S	S	S	S	S	S	S	S	S								P								
Children's homes		S	S	S	S	S	S	S	S	S								P								
Domestic shelters	C	C	C	C	C	C	C	C	C	C				C				P			P	P	P			
Healthcare facilities, Residential	S		S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	P	S							
Dwellings for members of religious orders	S	S	S	S	S	S	S	S	S	S								P								
Dwellings for non-related persons			S	S	S	S	S											P								
Fraternities and sororities								P	P	P								P								
Group homes	C	C	C	C	C	C	C	C	C	C	P		P	C				P	P							
Shelters for the homeless, temporary																		S						S		
All other uses in this Use Group																		P								

(Ord. 20212 §1; July 13, 2015: prior Ord. 20024 §1; June 2, 2014: Ord. 19827 §5; February 25, 2013: Ord. 19733 §3; June 25, 2012).

27.06.090 Utilities Use Group.

Characteristics: The Utilities Use Group is characterized by the use of equipment for the purposes of distribution of basic utilities which provide service for, but is not limited to electricity, gas, phones, cable, and fiber optics. In addition, such uses include but are not limited to broadcast stations and towers, commercial wind energy conversion system, commercial solar energy conversion system, personal wireless services facilities, and alternative and renewable energy generation systems.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Broadcast stations	S									S	P	P	P	P	P	P	P	P	P		P	P	S	P	P	P
Broadcast towers	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Commercial Solar Energy Conversion System (CSECS)	S																							P	P	P
Commercial Wind Energy Conversion System	S																									
Personal wireless services facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Public utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Utility and cable television purposes	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	S	P	P	P
Wind Energy Conversion System	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
All other uses in this Use Group																								P	P	P

(Ord. 20171 §2; March 16, 2015: prior Ord. 19773 §1; September 10, 2012: Ord. 19733 §3; June 25, 2012).

27.06.100 Civic Services Use Group.

Characteristics: The Civic Services Group is characterized by uses which provide services that enhance the health, safety and welfare of the community. Such uses often serve and are complimentary to neighborhoods. They also provide for assemblies of members, guests, and/or the general public for social, cultural, charitable, religious and civic purposes. Such uses include but are not limited to adult care centers, clubs, cemeteries and mausoleums, churches, museums and hospitals. Such Civic Services typically do not include people living on site as their permanent residence.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Adult day services facility				S	S	S					P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Cemeteries and mausoleums	C	C	S	S	S	S	S	S	S	S					S	S	S	P		S	S	S	S	P	P	P
Churches	P	P	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P		P	P	S	C	C	C
Clubs/ Lodges	S	S	S	S	S	S	S	P	P	P	S	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Health care facilities, Non-residential			S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S		S	S	S			S
Neighborhood support services			S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
All other uses in this Use Group											P	P	P	P	P	P	P	P	P		P	P	P	P	P	P

(Ord. 19827 §6; February 25, 2013: prior Ord. 19733 §3; June 25, 2012).

27.06.110 Education and Instruction Use Group.

Characteristics: The Education and Instruction Use Group is characterized by places that provide learning, child development, including basic curriculum, post secondary education, job skills, technical training, and other instructional courses. Such uses include but are not limited to academies for business, dance, music, gymnastics, and martial arts; early childhood care facilities, private elementary and secondary schools, community colleges, colleges, or other post-secondary education facilities including industrial trade schools.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Academies	S	S	S	S	S	S	S	S	S	S	P	S	S	S	P	P	P	P	P		P	P	P	S		P
Community, satellite, private colleges; vocational schools or other post-secondary education facilities, except industrial trade schools	S	S	S	S	S	S	S	S	S	S	P	S	P	P	P	P	P	P	P		P	P	S	S		P
Industrial trade schools	S	S	S	S	S	S	S	S	S	S	P	S	P	P	P	P	P	P	P		P	P	S	S	P	P
Early childhood care facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P		P	P	S	S	S	S
Private schools	P		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C		C	C	S			S
All other uses in this Use Group															P	P	P	P	P		P	P	P		P	P

(Ord. 19827 §7; February 25, 2013: prior Ord. 19733 §3; June 25, 2012).

27.06.120 Office Use Group.

Characteristics: The Office Use Group is characterized by activities conducted in an office setting that focus on the provision of goods and services. Generally the uses are open during normal business hours and are not associated with late night activities. Individual uses generally do not require more than an acre of land. Such uses include but would not be limited to offices for doctors, therapists, architects, engineers, lawyers, accountants, banks, savings and loan associations, credit unions, finance companies, data centers, and insurance companies. Office use may include research and development activities as defined in technology transfer industries in Chapter 27.02.210.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Banks, savings and loan associations, credit unions, and finance companies											S	P	P	C	P	P	P	C	P		P	P	P	P	P	P
Offices										S	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
All other uses in this Use Group											P	P	P	P	P	P	P	P	P		P	P	P	P	P	P

(Ord. 19733 §3; June 25, 2012).

27.06.130 Retail Sales and Services Use Group.

Characteristics: The Retail Sales and Services Use Group is characterized by uses that are involved in the sale, lease, or rental of new or used products to the general public. They may also provide personal services, or provide product service or repair for consumer and business goods. Services and repairs are typically performed on site. Small-scale production, assembly, or manufacturing of retail goods and crafts primarily sold on the premises is permitted as accessory to business activity. A portion of the premise may be used for outdoor storage of products associated with the main use. These uses may be open 24 hours a day and may include drive up or drive thru facilities. These uses generally do not involve the use, storage, production or manufacturing of hazardous chemicals. Such uses include but are not limited to retail sales, personal services, service and repair facilities, motorized vehicle repair and sales, hotels and motels, ambulance services, motorized fuel sales facility, parking lots, recycling drop-off facilities and off-sale of alcoholic beverages. Parking as a primary use is part of this use group.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Garden centers	S	S		S	S										P	P	P	P	P		P	P	P	P	P	P
Hotels and motels													P		P	P	P	P	P	P	P	P	P	P	P	C
Kennels	P	P													C	C	C	P			C	C	C	P	P	P
Mail order catalog sales											C	S	S		P	S	P	P			P	P	P	P	P	P
Marinas for sale, service, and storage of motorboats and related water craft															P			P	P					P	P	P
Motorized vehicle fuel sales facility															P	P	P	C	P	P	P	P	P	P	P	P
Motorized vehicle repair/service															C	P	C	C	P	P	P	P	P	P	P	P
Motorized vehicle sales																	C	C	P		C	C	P	P	P	P
Motorized vehicle wash facilities															C	C	C	C	P	P	C	C	S	P	P	P
Off-sale alcoholic beverages															S	C	S	P	C	S	S	S	S	S	P	S
Outdoor retail sales																		P	P			P	P	P	P	P
Outdoor seasonal sales	C	C	S	S	S	S	S	S	S	S	S	S	S		P	P	P	P	P		P	P	P	P	P	P
Parking garage as a primary use											S							C						P	P	P
Parking lots as a primary use			S	S	S	S	S	S	S	S		C			P		P	C			P	P		P	P	P
Parking lots, temporary			S	S	S	S	S	S	S	S								P						P	P	P
Parking lots, temporary commercial				S	S													P						P	P	P
Personal services											C	C	C	C	P	P	P	P	P		P	P	P	P	P	P
Retail sales											C		C		P	P	P	P	P		P	C	C	C	P	P
Service and repair facilities														C	C	P	C	P	P		C	P	P	P	P	P
Veterinary facilities	S	S									C	C	C	C	C	C	C	P			C	C	C	P	P	P
All other uses in this Use Group															P	P	P	P	P		P	P	P	P	P	P

(Ord. 20086 §1; August 25, 2014: prior Ord. 19827 §8; February 25, 2013: Ord. 19733 §3; June 25, 2012).

27.06.140 Food and Drink Establishments Use Group.

Characteristics: The Food and Drink Establishments Use Group is characterized by activities primarily relating to dining, drinking, and/or minor or occasional entertainment. Establishments provide indoor and/or outdoor seating and sell food or drinks prepared on site. Areas for entertainment may also be provided. These uses may be open 24 hours. Such uses include but are not limited to restaurants, fast food or drive thru eating facilities, bars and other on premises sale of alcoholic beverages. The Food and Drink Establishments Use Group may also include the small scale production manufacturing and distribution of food or beverages for facilities generally located on less than one acre such as craft breweries and local bakeries when those uses also sell their products on site.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
On-sale alcoholic beverages													S		S	C	S	P	C	S	S	S	S	S	S	S
Restaurants											C		S		P	P	P	P	P	P	P	P	P	P	P	P
All other uses in this Use Group															P	P	P	P	P	P	P	P	P	P	P	P

(Ord. 19827 §9: February 25, 2013: prior Ord. 19733 §3; June 25, 2012).

27.06.150 Commercial Recreation and Entertainment Facilities Use Group.

Characteristics: The Commercial Recreation Facilities Use Group is characterized by uses that provide as its primary function events and activities for the entertainment and/or recreation of members, guests or customers. Events or activities may be indoors or outdoors. Such uses include but are not limited to outdoor recreational facilities, campgrounds, enclosed commercial recreational facilities, miniature golf courses, sexually oriented live entertainment establishments, social halls, community halls, theaters and picture arcades. This use group does not include facilities that are primarily used for instruction and are not open to the public.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Campgrounds	S	S																								
Community halls	S																									
Recreational facilities, enclosed commercial															P	P	P	P	P		P	P	P	P	P	P
Recreational uses, outdoor	S	S	S	S	S	S	S	S	S	S	S		S		S	S	S	P	P		P	P	P	P	P	P
Sexually oriented live entertainment establishments																				S	S	S	S	S	S	S
Social halls															C	C	C	P	C		C	C	C	P	P	
Theaters (indoor)																		P	S							
Theaters (outdoor)																		P			S	P	P	S		
All other uses in this Use Group															P	P	P	P	P		P	P	P	P	P	P

(Ord. 19733 §3; June 25, 2012).

27.06.160 Major Entertainment and Event Use Group.

Characteristics: The Major Entertainment and Event Use Group is characterized by activities and structures that draw large crowds of people, generally over 500 people, to specific events or shows. These activities generally do not occur on a daily basis. They do involve activities that may last late into the night and early morning. Such uses include but are not limited to amphitheaters, animal racing tracks, arenas, auditoriums, convention center, exhibition and meeting facilities, recreational facilities for motorized vehicles, and stadiums.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Places of public assembly																		P	P					P	P	P
Race track for motorized vehicles	S																							S		
All other uses in this Use Group																		P								

(Ord. 20108 §2; November 17, 2014: prior Ord. 19733 §3; June 25, 2012).

27.06.170 Heavy Commercial Services Use Group.

Characteristics: The Heavy Commercial Services Use Group is characterized by uses that are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors, building maintenance services, and similar uses perform the majority of their services off-site. Outdoor storage and activity and a fleet of service vehicles and machinery are common. Heavy equipment or truck idling may occur for long periods of time. Few customers, especially the general public, come to the site on a regular basis. Such uses include but are not limited to private landing strips, building and construction contractor services, tree services, truck stops, truck terminals, truck wash facilities, mini-warehouse and lumber yards.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Contractor services																	C	P	P		C	P	P	P	P	P
Cabinet shops or stores																	C	P	P		C	P	S	P	P	P
Lumber yards																		P	P			P	P	P	P	P
Mini-warehouses																		C			P	P	P	P	P	P
Private landing strips and appurtenances	S	S																								
Temporary storage of construction equipment and materials	S																	P						P	P	P
Tree service	S																	P						P	P	
Truck stops																		P		P		P	P	P	P	P
Truck terminals																		P				P	P	P	P	P
Truck wash facilities																		C		P	C	C	S	P	P	P
All other uses in this Use Group																		P			P	P	P	P	P	P

(Ord. 20108 §3; November 17, 2014: prior Ord. 19773 §2; September 10, 2012: Ord. 19733 §3; June 25, 2012).

27.06.180 Manufacturing, Processing, Storage and Distribution Use Group.

Characteristics: The Manufacturing, Processing, Storage and Distribution Use Group is characterized by uses that are involved in the manufacturing, processing, fabrication, packaging, assembly of goods and/or storage or movement of goods. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the site. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. Activities commonly use trains or heavy trucks to ship and receive goods. Access to or near a highway is preferred. There is little on-site sales activity with the customer present. Such uses include but are not limited to assembly facilities, concrete dispensing units, salvage yards, grain elevators and mills, warehouses and outdoor motorized vehicle storage.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Assembly Facilities																		P			C	C		P	P	P
Bag cleaning works																								S	P	
Bakeries (wholesale)																		P			P	P		P	P	P
Blast furnaces, coke ovens, smelting, or ore reduction works																								S	P	
Boiler works or forge																								S	P	
Bottling works																		P			P	P		P	P	P
Brewery (over 20,000 barrels)																								S	P	
Brick, tile, pottery, or terra-cotta manufacture, other than the manufacture of handicrafts																								P	P	P
Coal yard																		P				P		P	P	P
Concrete dispensing units (small batch)																		P				S	S	P	P	P
Concrete paving plants (temporary)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Creameries																		P				P		P	P	P
Distillation of bones, coal, or wood																								S	P	
Enclosed disassembly operations																		P			P	P	P	P	P	P
Fertilizer or toxic or flammable agricultural chemicals: Facilities for commercial storage or sale	S	S																					S	S	P	
Forges																								S	P	
Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals																						S	S	S	C	C
Grain elevators																								P	P	P
Grain elevators and grain mills																								P	P	P
Grain mills																								P	P	
Liquified petroleum, gas and similar gas used for fuel stored above ground																						S	S	S	C	C
Manufacture, transfer, or storage of acetylene																								S	P	
Open storage																		P						P	P	
Optical lens grinding and finishing																	P	P			P	P		P	P	P

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Outdoor vehicle storage																						C	C		C	
Petroleum and petroleum products, bulk storage																						S	S	S	C	C
Production, manufacture, distribution, or commercial storage of toxic, flammable, or explosive materials, including chemicals and gases, fireworks and explosives, arsenals and magazines																								S		
Refining or bulk storage of petroleum or natural gas, or their products																								S	P	
Refining The refining, distillation, or manufacture of: Acids or alcohols; Ammonia, bleach, or chlorine; Asphalt, tar, or products made therewith, including roofing or waterproofing; Cement, lime, gypsum, or plaster of paris; Disinfectants; Dyestuffs; Fertilizer; Glue, sizing, or gelatin; Oilcloth, linoleum, oiled rubber goods; Paint, shellac, turpentine, or oils; Paper or pulp; Rubber, gutta-percha, balata, creosote, or products treated therewith; Shoe polish																								S	P	
Rendering fat																								S	P	
Rock crusher																								S	P	
Rolling mill (a steel mill where metal is rolled into sheets or bars)																								S	P	
Salvage yards																								S		
Stock yards or slaughter of animals or fowl																								S	P	
Storage of explosives																								S		
Tanning, curing, or storage of raw hides or skins																								S	P	
The milling, processing, refining, or distillation of agricultural crops.																								S	P	
Transportation of toxic, radioactive, flammable, or explosive materials																								S	P	
Warehouses																		C				P	P	P	P	P
Wholesale and distribution centers																		P					S	P	P	P
Yeast plant																								S	P	
All other uses in this Use Group																		P						P	P	P

(Ord. 19827 §10; February 25, 2013: prior Ord. 19733 §3; June 25, 2012).

27.06.190 Waste Management and Extractive Services Use Group.

Characteristics: The Waste Management and Extractive Services Use Group is characterized by uses that receive solid or liquid wastes from others for disposal and/or processing on the site, facilities that transfer waste to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. It also includes uses that mine or extract minerals or aggregate resources from the ground. Site grading approved with a development is not considered an extractive industry. Such uses include but are not limited to landfills, dumping or reduction of garbage, offal, or dead animals, commercial composting operations, salvage yards, and soil mining.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Dumping or reduction of garbage, offal, or dead animals																								S		
Excavation and Stone Milling including: Extraction of sand, gravel, soil and mining, quarrying, stone mills	S	S			S											S					S	S	S	S	S	
Landfills, Limited	S																					S		S	P	P
All other uses in this Use Group																								P	P	P

(Ord. 19733 §3; June 25, 2012).

Chapter 27.51

I-3 Employment Center District

Sections:

27.51.010	**Scope of Regulations.**
27.51.020	**General Purpose.**
27.51.030	**General Regulations.**
27.51.035	**Permitted Uses.**
27.51.040	**Permitted Conditional Uses.**
27.51.050	**Permitted Special Uses.**
27.51.060	**Accessory Uses.**
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27.51.075	**Pedestrian Circulation Regulations.**
27.51.080	**Sign Regulations.**
27.51.085	**Grading and Land Disturbance Regulations.**
27.51.090	**Height and Area Regulations.**
27.51.100	**Use Permit Procedures and Requirements.**

27.51.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the I-3 Employment Center District. (Ord. 17232 § 1; August 18, 1997).

27.51.020 General Purpose.

The regulations for the I-3 Employment Center District set forth in this chapter are established to permit the development of attractive office and light industrial facilities as employment centers for location of plant facilities or headquarters of major employers. The I-3 Employment Center District is also intended to provide such employment centers with the surrounding support uses, including complementary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and polices of the community. (Ord. 17232 § 2; August 18, 1997).

27.51.030 General Regulations.

(a) I-3 Employment Center District Zoning. I-3 Employment Center District zoning shall not be permitted or granted upon any property having a total area of less than fifty (50) acres.

(b) General Use Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center District prior to the approval of a use permit in conformance with the requirements of this chapter. No use permit shall be granted upon any property having a total area of less than fifty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter.

(c) Specific Use Regulations.

(1) The aggregate retail use permitted in the I-3 Employment Center District shall not exceed twenty percent (20%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four. Similarly, the aggregate office use permitted in the I-3 District shall not exceed thirty percent (30%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(2) The total of all retail, office, post-secondary education facilities, nonprofit religious, educational, and philanthropic institutions permitted in the I-3 District and early childhood care facilities specially permitted in Section 27.51.050 below shall not in the aggregate exceed fifty percent (50%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(3) Notwithstanding (1) and (2) above, 75,000 square feet or more of floor area used by a single user shall not be subject to the thirty percent (30%) and fifty percent (50%) limitations.

(4) All uses shall comply with all applicable ordinances and regulations including such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as may be approved by resolution of the City Council.

(5) No galvanized or other raw metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than seventy percent (70%) of the exterior construction of a building on any side of such building which is visible from an abutting public street.

(6) The City Council may modify these conditions, except for condition (4). (Ord. 20203 §1; June 15, 2015: prior Ord. 19733 §29; June 25, 2012: Ord. 19323 §1; November 2, 2009: Ord. 19224 §11; March 16, 2009: Ord. 19172 §11; November 3, 2008: Ord. 17907 §1; August 27, 2001: Ord. 17232 § 3; August 18, 1997).

27.51.035 Permitted Uses.

A building or premises is allowed to be used for those use types designated in the Use Group Tables in Chapter 27.06 as a permitted use in the I-3 Employment Center District. (Ord. 19733 §29; June 25, 2012).

27.51.040 Permitted Conditional Uses.

A building or premises is allowed to be used for those use types designated in the Use Group Tables in Chapter 27.06 as a permitted conditional use in the I-3 Employment Center District in conformance with the Chapter 27.62 conditions of approval for such use. (Ord. 19733 §29; June 25, 2012: prior Ord. 18962 §5; July 23, 2007: Ord. 18438 §7; September 20, 2004: Ord. 17232 § 4; August 18, 1997).

27.51.050 Permitted Special Uses.

A building or premises is allowed to be used for those use types designated in the Use Group Tables in Chapter 27.06 as a permitted special use in the I-3 Employment Center District in conformance with the conditions of approval under the special permit granted for such use in conformance with the requirements of Chapter 27.63. (Ord. 19733 §29; June 25, 2012: prior Ord. 19158 §47; October 20, 2008: Ord. 17731 §11; September 25, 2000: Ord. 17232 § 5; August 18, 1997).

27.51.060 Accessory Uses.

Accessory uses permitted in the I-3 Employment Center District are accessory buildings and uses customarily incident to any of the permitted uses, permitted conditional uses, or permitted special uses in said district, except that early childhood care facilities, academies, and schools are not a permitted accessory use to a church in the I-3 Employment Center District. Accessory uses involving the open storage of materials or other articles shall only be allowed in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height. (Ord. 197933 §29; June 25, 2012: prior Ord. 18438 §8; September 20, 2004: Ord. 17232 § 6; August 18, 1997).

27.51.070 Parking Regulations.

All parking within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 17232 § 7; August 18, 1997).

27.51.075 Pedestrian Circulation Regulations.

Construction of on-site pedestrian circulation sidewalk systems shall be regulated in conformance with the provisions of Section 27.81.010. (Ord. 18687 §24; March 20, 2006).

27.51.080 Sign Regulations.

Signs within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 17232 § 8; August 18, 1997).

27.51.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §27; February 22, 2000.)

27.51.090 Height and Area Regulations.

Minimum area for the establishment of the I-3 Employment Center District is fifty acres. The maximum height and minimum lot requirements within the I-3 Employment Center District shall be regulated in conformance with the requirements of Chapter 27.72. (Ord. 19733 §29; June 25, 2012: prior Ord. 18687 §25; March 20, 2006; Ord. 17907 §2; August 27, 2001: Ord. 17232 § 9; August 18, 1997).

27.51.100 Use Permit Procedures and Requirements.

See Chapter 27.64 for use permit procedures and requirements. (Ord. 19733 §29; June 25, 2012: prior Ord. 18898 §5; March 12, 2007: 17633 §5; October 24, 2005: Ord. 17907 §3; August 27, 2001: Ord. 17857 §5; June 4, 2001: Ord. 17232 § 10; August 18, 1997).

(viii) Any existing motorized vehicle sales facility lawfully established on the effective date of this ordinance which does not comply with conditions (i) through (vii) above may be continued in accordance with the provisions of Chapter 27.61 for nonconforming uses.

(3) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, motorized vehicle sales and/or repair/service facilities are prohibited;

(d) Motor fuel sales facilities are allowed in the B-4 zoning district under the following condition: In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district, fuel sales facilities are prohibited;

(e) Motorized vehicle wash facilities are allowed in the B-1, B-2, B-3, B-4, H-2, and H-3 zoning districts under the following conditions:

(1) In the B-1, B-2 and B-3 zoning districts, a self-service, coin-operated wash facility shall not exceed four wash bays.

(2) In the H-2 and H-3 zoning districts, a self-service, coin-operated wash facility shall not exceed six wash bays.

(3) In the B-2 and B-3 zoning districts, the stacking space shall not be located within the required front yard.

(4) In the area of the B-4 zoning district from 150 feet east of 17th Street to the eastern edge of the B-4 zoning district and in the area bounded by 10th Street, 150 feet north of "P" Street, 14th Street and "N" Street, motorized vehicle wash facilities are prohibited;

(f) Outdoor seasonal sales, tents and other temporary structures are allowed in the AG and AGR zoning districts under the following conditions:

(1) In the AG and AGR zoning districts, roadside stands for the temporary or seasonal sale of produce shall:

(i) Be located outside the city limits;

(ii) Be allowed in addition to any other main use, regardless of lot size;

(iii) Be allowed in a required yard, provided that such roadside stand shall be located no closer than thirty feet to the edge of a traveled roadway;

(iv) Not be operated for more than 180 days in any one calendar year.

(g) Parking as a primary use is allowed in the O-2 and B-4 zoning districts under the following conditions:

(1) In the O-2 zoning district provided that no part of the street frontage within the block face on which a parking lot is proposed to be located may be zoned residential.

(2) In the area of the B-4 zoning district bounded by 10th Street, 150 feet north of "P" Street, 14th Street, and "N" Street, parking as a primary use is prohibited;

(NOTE: If the above conditions cannot be met, the use may be allowed upon approval of a special permit pursuant to Chapter 27.63).

(h) Personal Services are allowed uses in the O-1, O-2, O-3, and R-T zoning district under the following conditions:

(1) In the O-1 and O-3 zoning districts:

(i) The services shall be located entirely within a building containing office or residential uses.

(ii) The services shall not exceed twenty percent of the total square feet of floor area in such building.

(2) In the O-2, and R-T zoning districts, the floor area of said use shall not exceed 5,000 square feet.

(i) Retail sales including mail order catalog sales are allowed in the O-1, O-3, H-3, H-4 and I-1 zoning districts under the following conditions:

(1) In the O-1 and O-3 zoning districts:

(i) The retail sales shall be located entirely within a building containing office or residential uses.

(ii) Retail sales shall not exceed twenty percent of the total square feet of floor area in such building.

(iii) Retail sales shall occupy no more than 10,000 square feet of floor area per business.

(2) In the H-3 zoning district, retail sales shall occupy no more than 20,000 square feet of floor area per business.

(3) In the H-4 zoning district, retail sales shall occupy no more than 30,000 square feet of floor area per business.

(4) In the I-1 zoning district, retail sales and service shall occupy no more than 20,000 square feet of floor area per business.

(NOTE: If conditions (2), (3) and (4) above cannot be met, the use may be allowed if a special permit is approved pursuant to Chapter 27.63).

(j) Sale of alcoholic beverages for consumption off the premises is allowed in the B-2 and B-5 zoning districts under the following conditions:

(1) Parking shall be in conformance with the provisions of Chapter 27.67; provided that in the B-5 zoning district no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(2) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(a) Parking. Parking shall be in conformance with Chapter 27.67; additional parking requirements may be imposed. Traffic may be required to be discharged into a major street as designated in the Comprehensive Plan, or into a classified collector. No parking shall be permitted in required front or side yards; all parking shall be screened.

(b) Yard and area regulations.

(1) Buildings shall not occupy over thirty-five percent of the total land area covered by the special permit.

(2) Yards abutting a nonresidential district shall be the same as those required in said abutting district.

(3) Any yard abutting a residential district or located wholly or partially in a residential district shall be the greater of ten feet or that required in the said abutting district, plus an additional one foot setback for each one foot of height shall be provided between the yard line and the wall nearest the yard line for that portion of the building exceeding twenty feet in height.

(4) Required front and side yards shall be landscaped.

(5) The City Council may increase or decrease these requirements with consideration given to both facilities and adjacent environment.

(c) The proposed non-residential healthcare facility shall conform to all applicable state and federal requirements.

(d) Such facilities should be located on major streets. (Ord. 19733 §31; June 25, 2012: prior Ord. 18687 §26; March 20, 2006; Ord. 15491 §1; March 19, 1990: Ord. 14035 §2; January 21, 1985: Ord. 13768 §3; February 21, 1984: Ord. 13053 §1; November 24, 1980: Ord. 12571 §311; May 8, 1979).

27.63.090 Dwellings For Members of a Religious Order.

Dwellings for members of a religious order may be allowed by special permit in the AG, AGR, R-1 R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The dwelling be a single housekeeping unit;

(b) Parking shall be in conformance with Chapter 27.67; and

(c) The maximum number of members occupying such a facility shall not exceed the following ratios between the resident and the lot area:

(1) AG and AGR, 1 resident/5,000 square feet;

(2) R-1, 1 resident/3,000 square feet;

(3) R-2 and R-3, 1 resident/2,000 square feet;

(4) R-4, 1 resident/1,000 square feet;

(5) R-5, R-6, R-7 and R-8, 1 resident / 750 square feet.

(d) The Planning Commission may increase the number of members up to 100% when the dwelling is located within 600 feet of the boundary of a school, church, or early childhood care facility served by the members.

(e) In the AG zoning district, dwellings for members of a religious order shall be on a minimum of five acres. (Ord. 20212 §2; July 13, 2015: prior Ord. 20194 §1; May 11, 2015: Ord. 14276 §1; November 25, 1985: Ord. 12571 §312; May 8, 1979).

27.63.100 Farm Chemicals.

Facilities for the commercial storage and sale of fertilizer and toxic or flammable agricultural chemicals such as herbicides, insecticides, and fungicides may be allowed in the AG, AGR, H-4, and I-1 zoning districts. (Ord. 19733 §31; June 25, 2012: prior Ord. 12571 §313; May 8, 1979).

27.63.110 Garden Centers.

Garden centers may be allowed by special permit in the AG, AGR, R-2, and R-3 zoning districts under the following conditions:

(a) In the R-2 and R-3 zoning districts, the land shall be adjacent to the boundary of one of the following districts: B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3;

(b) In the AG and AGR zoning districts, buildings and parking shall be set back at least 100 feet from all exterior lot lines;

(c) In the R-2 and R-3 zoning districts, buildings, parking stalls, and driving aisles shall be set back at least 30 feet from abutting residential lot lines;

(d) Height regulations shall be the same as the zoning district in which it is located;

(e) If a building or parking lot is located on the garden center site adjacent to any residential district, the yards adjacent to said residential district shall be landscaped and screened as required in Section 7.5 titled "Adjacent Land Uses and Zoning Districts of Substantially Different Character; B-1, B-2, B-3, H-1, H-2, H-3, H-4, B-5, O-2, I-1, I-2, I-3 Abutting Residential Districts" in Chapter 3.50 of the approved Design Standards for Zoning;

(f) Access to the garden center shall be from a street that is designated as an existing or future arterial in the Comprehensive Plan. (Ord. 19354 §1; March 8, 2010: prior Ord. 17482 §3; March 29, 1999: Ord. 12571 §314; May 8, 1979).

27.63.120 Mobile Home Courts.

Mobile home courts may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home court has a minimum site area of ten acres.

(b) The average lot per family within the court shall not be less than the lot area per family required in the district or districts in which the mobile home court is located.

(c) Twenty-five feet shall be maintained between mobile homes, and between mobile homes and buildings, in all horizontal directions, except as otherwise provided under Section 21.56.070 of the Lincoln Municipal Code.

(d) No mobile home shall be located closer than fifty feet to any exterior property line, except when the mobile home is located adjacent to a trailer court or another mobile home court. Land within said fifty-foot exterior open space shall be permanently landscaped in accordance with the landscape design standards adopted by the City of Lincoln, except for the necessary paving of roadways and walkways to reach the mobile home area; provided, however, such landscaping shall not create a traffic hazard by impairing visibility at street and roadway intersections.

(e) Mobile homes within the mobile home court shall be required to have a setback of at least twenty feet from the pavement of private roadways.

(f) The design and construction or installation of roadways, walkways, parking spaces, utilities, drainage facilities, storage facilities, recreational facilities, landscaping, and other improvements shall comply with the written design standards established by resolution of the City Council. Said design standards shall be filed with the City Clerk and made available upon request.

(g) No mobile home court shall be occupied or otherwise used until the appropriate city official has found the same is in compliance with the resolution approving said special permit and all other applicable laws, regulations, and requirements.

(h) A special permit for a mobile home court shall be temporary and shall be valid only so long as the mobile home court existing thereunder complies with the resolution approving said special permit and all other applicable laws, regulations, and requirements.

(i) The Planning Commission may permit uses accessory to mobile homes and mobile home courts in the nature of off-street parking facilities, private recreational facilities, and storage and maintenance facilities.

(j) If the applicant requests a combination special permit for both a mobile home court and a community unit plan, the Planning Commission may adjust the requirements set forth in subparagraphs (c), (d), (e) and (f) when such adjustments would be consistent with the intent and purpose of this title to promote public safety and general welfare. However, this paragraph does not allow the minimum court area to be reduced to less than ten acres.

(k) Individual lots in mobile home courts may be created under the following conditions:

(1) A combination special permit for both a mobile home court and a community unit plan is granted for such mobile home court;

(2) The lot area and average lot width for each proposed lot complies with the requirements of the underlying district, and no adjustments thereto are granted under the community unit plan provisions of the required special permit;

(3) The proposed subdivision complies with the land subdivision ordinance, being Title 26 of the Lincoln Municipal Code;

(4) The proposed mobile home lots shall not include all or any portion of the private roadways within said mobile home court; and

(5) Provisions for permanent and continuous maintenance and supervision of the common areas, and private utilities and facilities shall be incorporated in covenants and restrictions governing the subdivided property and shall be approved by the City Attorney prior to filing in the office of the Register of Deeds. (Ord. 18480 §3; December 20, 2004: prior Ord. 16145 §1; July 6, 1992: Ord. 13443, as amended by Ord. 13534 §1; January 24, 1983: Ord. 12571 §315; May 8, 1979).

27.63.125 Mobile Home Subdivisions.

Mobile home subdivisions may be allowed by special permit in the R-1, R-2, R-3, and R-4 zoning districts under the following conditions:

(a) The mobile home subdivision shall have a minimum site area of ten acres.

(b) The created mobile home lots and yards shall comply with all the applicable height and area regulations of the underlying district in which such subdivision is to be located, except that the minimum horizontal distance between mobile homes and the exterior property lines of the mobile home subdivision shall be fifty feet.

1990: Ord. 14987 §1; September 19, 1988: Ord. 14672 §1; May 26, 1987: Ord. 14185 §21; September 3, 1985: Ord. 13565 §1; April 4, 1983: Ord. 13510 §2; December 13, 1982).

27.63.490 Small Batch Concrete Dispensing Units.

Small batch concrete dispensing units may be allowed by special permit in the H-3 and H-4 zoning districts under the following conditions:

(a) The mixing chamber shall not have a mixing capacity of greater than one-fourth cubic yard and materials to be mixed shall be totally enclosed;

(b) The units shall be used only in conjunction with a permitted use in this district;

(c) Environmental performance standards. Such use shall comply with the environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council;

(d) Outdoor storage of sand, gravel, or cement used in the concrete shall be screened from all adjoining properties and public rights-of-way. (Ord. 13865 §3; June 18, 1984).

27.63.500 Salvage Yards.

Salvage yards may be allowed by special permit in the I-1 zoning district under the following conditions:

(a) Construction and operation shall comply with Chapters 5.41 and 8.26 of the Lincoln Municipal Code and any other applicable codes or requirements;

(b) Receiving areas for salvage material shall be designed to avoid the depositing of salvage material outside a building or outside screened storage areas;

(c) Salvage yards shall contain a minimum of two acres, except that the site may be as small as 20,000 square feet where the site abuts one or more existing salvage yards that exceed two acres in total, or where the site is located no closer than 100 feet to the boundary of the I-1 zoning district except where said boundaries are common with H-3 zoning district;

(d) Salvage and/or recycling material kept outside a building or buildings shall not be located closer than 500 feet from any of the following entrance corridors, except where existing land forms completely obstruct the view by the traveling public of the salvage material:

(1) Interstate 80 and 180;

(2) West Bypass and "K" and "L" extension;

(3) U.S. 77 north of Morton Street;

(4) U.S. 77 and Nebraska Highway 2 south of High Street;

(5) Nebraska Highway 2 east of South 14th Street;

(6) U.S. 6 east of a point one-fourth mile west of 70th Street;

(7) U.S. 6 west of Salt Creek;

(8) Cornhusker Highway west of Interstate 180;

(9) North 27th Street north of Leighton Street;

(10) West "O" Street and "O" Street west of 9th Street.

(e) Salvage/recyclable material kept outside a building or buildings shall not be located in the required front yard;

(f) Salvage/recyclable material kept outside a building or buildings shall be located at least 100 feet from the boundaries of the I-1 or I-2 zoning district except where said boundaries are common with the H-3 zoning district and shall be at least 500 feet from any residential zoning district;

(g) Salvage/recyclable materials may be stored in enclosed semi-trailers provided that the semi-trailers are properly licensed and are operable to be drawn by a motor vehicle upon the streets and highways of the City of Lincoln and the State of Nebraska and the semi-trailer shall not be located in the required front yard. Where the side yard or rear yard of the salvage yard abuts a residential district, the semi-trailers shall be located at least twenty feet from the respective side lot line or rear lot line and the openings to the trailer shall not face the residential district.

(h) The City Council may decrease the setback requirements in (c) and (f) above upon finding that there is sufficient justification for such modification and that there will be no significant adverse effect on the adjacent property. (Ord. 19733 §31; June 25, 2012: prior Ord. 17217 §1; July 14, 1997: Ord. 16822 §3; July 10, 1995: Ord. 14801 §1; December 7, 1987: Ord. 14185 §22; September 3, 1985).

27.63.510 Cemeteries.

Cemeteries may be allowed by special permit in any residential district (R-1 through R-8), any highway district (H-1 through H-4), and the B-1, B-2, and B-3 districts. All required setbacks shall be maintained as landscaped or open space areas. Additional setback or screen requirements may be required to minimize impacts on adjacent properties. (Ord. 14378 §16; May 5, 1986).

27.63.530 Healthcare Facilities, Residential.

Residential health care facilities may be allowed by special permit in the AG, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, R-T, B-1, B-2, B-3, B-4, and B-5 zoning districts under the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 unless modified under the condition of the special permit, provided that no parking shall be permitted in the required front or side yards.

(b) Residential healthcare facilities shall be licensed to comply with all state requirements.

(c) The total number of client or employee residents shall not exceed the lot area ratio below except as provided for in this section, and provided that all facilities may have up to four individuals sixty years of age or older and one family acting as the residential caretaker:

(i) AG zoning district: One person for 5,000 square feet of lot area;
(ii) R-1 zoning district: One person per 3,000 square feet of lot area;
(iii) R-2 and R-3 zoning districts: One person per 2,000 square feet of lot area;
(iv) R-4 zoning district: One person per 1,000 square feet of lot area;
(v) R-5 through R-8 zoning districts: One person per 750 square feet of lot area.

(d) Depending on the character of the development and impacts on adjacent land uses, the Planning Commission may grant an increase in the number of residents allowed in (d) above where the site plan and building plans comply with the barrier-free standards in the design standards as adopted by the City Council. Such increase shall not exceed fifty percent.

(e) The height and lot requirements of the district in which the proposed use is located shall apply provided, however, that if the area of the lot is one acre or more, the height requirement of the district may be adjusted to provide flexibility in the design of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings or potential buildings on land under other ownership shall not be reduced by such adjustment. In the AG zoning district, residential healthcare facilities shall be located on a lot having a minimum of five acres. (Ord. 20212 §3; July 13, 2015: prior Ord. 19827 §16; February 25, 2013: Ord. 19733 §31; June 25, 2012: Ord. 18903 §7; March 26, 2007: Ord. 18480 §12; December 20, 2004: Ord. 17513 § 1; June 1, 1999: Ord. 16687 §2; October 17, 1994: Ord. 14562 §10; December 8, 1986).

27.63.550 Private Landing Strips and Appurtenances.

Private landing strips and appurtenances may be allowed by special permit in AG and AGR districts under the following conditions:

(a) The application shall be accompanied by the following information:

(1) A plot plan showing location of landing strips, taxiways, approach and clear zones as well as plans and elevations illustrating the airspace requirements of the landing area, and proposed accessory structures and uses.

(2) The type and use of aircraft for which the facility is intended.

(3) Number of aircraft to be stationed on the site.

(4) Frequency of flights and hours of operations.

(5) Diagram of flight patterns to be used in and out of the landing area.

(6) Drainage and grading plan of the site.

(7) Length, width, surface and lighting facilities of landing strips.

(8) Heights of any vegetation, buildings, pole lines, etc. that are adjacent to the landing area or within the approach and clear zones.

(9) The distance and differences in elevation between the ends of landing strips and any road, railroads, or highways that are adjacent to the landing strips.

(b) The site shall be located at least one mile away from any residential district (R-1 through R-8) and existing schools, hospitals, theaters, and nursing homes.

(c) The operation shall not result in air pollution and noise generation exceeding the city, state and federal standards.

(d) No structures shall be located within approach and clear zones if such structures encroach upon the airspace required for the safe operation of aircraft for which the landing strips are intended. It shall be the duty and at the sole expense of the applicant to remove such structures.

(e) No use of the landing strip permitted shall create electrical interference with aerial navigational signals or radio communication, of aircraft overflying

Chapter 27.64

USE PERMITS

Sections:

27.64.010 Procedures and Requirements.

27.64.010 Procedures and Requirements.

(a) Application: Applications for a use permit under this chapter for development in the O-3, R-T, B-2, B-5, and I-3 zoning districts shall be filed by the owner in writing with the Planning Department on a form provided by the City. Upon filing the application, the City Council shall refer the application to the Planning Commission for its consideration and final action as provided in subsection (g) below.

(b) Preliminary plan: The Planning Director may require a preliminary plan that may include the following information:

(1) Boundary survey and gross acreage;

(2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;

(3) Street right of way;

(4) Utility easements;

(5) Adjacent land use and zoning classifications;

(6) Location of structures on property to be removed;

(7) Vicinity map;

(8) Date prepared, scale and north point;

(9) Schematic and location of existing buildings;

(10) Parking areas and capacity;

(11) Open space for residential uses (except in the R-T District);

(12) Use of buildings, such as retail, service, restaurant, office, residential and other uses;

(13) Height of buildings;

(14) Location of existing trees and proposed landscape plan;

(15) Proposed vehicular and pedestrian circulation system including egress and ingress;

(16) Building and parking setback lines;

(17) Grading plan;

(18) On-site and off-site water and sanitary sewer improvements;

(19) On-site and off-site drainage and storm sewer improvements;

(20) Location of proposed free-standing signs;

(21) Cross-section for paving of parking lots and sidewalks;

(22) In the B-2 and B-5 districts, proposed name of the shopping center;

(23) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Environmental impact statement and market analysis: If any application for a change of zone to the B-5 Planned Regional Business District or for a use permit in the B-5 district under the provisions of this section substantially deviates from the Comprehensive Plan in terms of location or size, as determined by the Planning Director, the applicant shall submit an environmental impact statement and a market analysis in accordance with Chapters 3.05 and 3.10 of the City of Lincoln Design Standards for Zoning Regulations which shall serve as a guide to the Planning Commission for evaluation of such application in terms of need, desirability, supportability, and its implications for the overall growth of the community.

(e) Planning Commission review: The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum parking and yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the applicable R-T, O-3, B-2, B-5, or I-3 District shall apply. The Planning Commission may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for which may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may also require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within ninety days from the date of the Council's referral of the application to the Planning Commission, the applicant may file a written request with the Planning Director requesting the Planning Commission to take final action on the application. If the Planning Commission fails to take such final action within thirty days following the Planning Director's receipt of the written request, the Planning Director shall schedule the application on the City Council's agenda for public hearing and final action.

(g) Appeal of Planning Commission action:

(1) Any council member, the Mayor, or any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(h) Adjustment: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, adjust the minimum subdivision requirements, minimum parking, height and lot requirements, sign regulations for location, height and area of a sign, and specific I-3 use regulations set forth in Title 26 and Title 27 provided the public welfare and interest of the City and surrounding area are protected and the general interest and spirit of the regulations are preserved and provided further that in the R-T district, the maximum height of a building shall not exceed the height of the tallest residence on the same and facing block fronts. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the use permit and the adjustment.

(i) Intentionally Omitted.

(j) Amendment: The Planning Director is authorized to approve amendments to the use permit provided that:

(1) A request for amendment is filed with the Planning Director and, if appropriate, accompanied by a plot plan showing all pertinent information;

(2) Minor increases in the number of dwelling units or total floor area originally authorized by the Planning Commission or City Council may be approved if such increases will not cause a significant adverse

impact on the public infrastructure, existing development within the use permit and adjoining properties. Minor increases shall not exceed more than fifteen percent (15%) cumulative additional dwelling units or total floor area;

(3) Amendments shall preserve the intent and spirit of the approved development plan;

(4) Amendments shall not violate any regulation set forth in this title;

(5) No change is made to the applicable setback, yard, or height requirements for lots along the perimeter of the use permit;

(6) Minor internal changes to the applicable setback, yard, or height requirements may be made within the use permit if they conform to the intent of the approved use permit and do not adversely impact existing development within the use permit;

(7) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as a formal application for use permit.

(k) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(l) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(n) Expiration of Application. All applications for a use permit which have been placed on pending by an applicant shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate. (Ord. 20203 §2; June 15, 2015: prior Ord. 20108 §10; November 17, 2014: Ord. 19733 §32; June 25, 2012).

Chapter 27.67

PARKING

Sections:

27.67.010	**Scope of Regulations.**
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27.67.030	**General Conditions.**
27.67.040	**Special Parking Requirements.**
27.67.050	**Special Conditions; B-4 Zoning District.**
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27.67.100	**Special Conditions; Parking Lots.**

27.67.010 Scope of Regulations.

Parking regulations for this title are as shown on the parking matrix and also as required in the additional conditions of this chapter. Any additional conditions imposed by any other ordinances or regulations also apply. If there is a conflict, the most restrictive ordinance, regulation, or other requirement shall apply. (Ord. 12571 §353; May 8, 1979).

27.67.020 Parking Matrix.

General parking requirements for this title are set out in Figure 27.67.020 at the end of this chapter. (Ord. 18998 §1; September 24, 2007: prior Ord. 18903 §13; March 26, 2007: Ord. 18826 §1; October 9, 2006: Ord. 17418 § 2; October 5, 1998; Ord. 17232 §17; August 18, 1997: Ord. 16958 §1; March 25, 1996: Ord. 16837 §1; July 31, 1995: Ord. 15784 §1; November 26, 1990: Ord. 15317 §10; October 16, 1989: Ord. 15165 §4; May 1, 1989: Ord. 15010 §1; October 10, 1988: Ord. 14696 §2; July 6, 1987: Ord. 13481, as amended by Ord. 13555 §1; March 7, 1983: Ord. 13234 §1; October 19, 1981: Ord. 13150 §1; June 15, 1981: Ord. 12657 §14; August 6, 1979: Ord. 12571 §354; May 8, 1979).

27.67.030 General Conditions.

The following general conditions shall apply, except as otherwise modified in this title:

(a) No parking space is permitted in the required front yard in any district except as follows:

(1) Parking lots, parking areas, and driving aisles in the front yard are permitted in the B-1, B-3, H-1, H-2, and H-3 zoning district in accordance with parking lot design standards; and

(2) Parking in the front yard is permitted in the R-1, R-2, R-3, and R-4 zoning districts for passenger cars, pickup trucks, or vans outside of an enclosed structure on a concrete driveway or its equivalent under the following conditions:

(i) The width of such parking area shall not exceed thirty-five percent of the width of the front yard;

(ii) The parking area shall be not less than two feet from and parallel to the side lot line and not less than two feet from the front property line;

(iii) The property shall be used for one- and two-family dwellings.

(3) Parking in the front yard is permitted as otherwise provided in Section 27.63.170.

(b) No parking space is permitted in the required side yard in any district except as otherwise provided in this chapter and in Section 27.63.170.

(c) Parking spaces are permitted in any required rear yard.

(d) All required parking spaces shall be provided on the same lot as the use for which they are required.

(e) Any parking requirement resulting in a partial parking space shall be rounded up to the next whole number.

(f) Where additional parking is required by this chapter due to a change in use and provision for such additional parking is not made, a special review and approval shall be required by the City Council.

(g) For single-family dwellings and two-family dwellings in the R-1, R-2, R-3 and R-4 zoning districts,

the required parking spaces may be stacked front-to-back, one vehicle deep.

(h) No parking space is required for the area of outdoor dining. (Ord. 19189 §1; December 15, 2008: prior Ord. 19092 §2; June 9, 2008: Ord. 18998 §2; September 24, 2007: Ord. 18770 §3; July 24, 2006: Ord. 18687 §28; March 20, 2006; Ord. 16958 §2; March 25, 1996: Ord. 15910 §1; June 24, 1991: Ord. 14215 §2; September 9, 1985: Ord. 12571 §355; May 8, 1979).

27.67.040 Parking Requirements; Special Conditions.

An alphabetical list of uses with special parking requirements for this title are set out in Figure 27.67.040 at the end of this chapter. The following special parking requirements shall apply to the listed uses in place of the general parking requirements found in Section 27.67.020:

(a) A fraternity or sorority shall provide 0.75 spaces per resident. Parking shall be provided either onsite or within 600 feet of the premises. Notwithstanding the above, no parking shall be required for a fraternity or sorority located within the boundaries of 14th Street to 17th Street and Q Street to W Street.

(b) Group homes: One space per three client or employee residents, plus two spaces per three nonresident employees on the largest shift; provided, however, that no spaces shall be required for client residents who will not possess motor vehicle operator's licenses. Appropriate documentation from the group home licensing agency shall be provided evidencing the non-possession of motor vehicle operator's licenses by clients.

(c) Adult day service facilities: One space/ employee on the largest shift, plus off-street loading/ unloading area for one automobile per ten care receivers. Joint parking with another use is acceptable if the adult care center and the other use have nonconcurrent parking demands.

(d) Elderly or retirement housing: One space/ dwelling unit.

(e) Mini-warehouses:

(1) Two spaces for manager's quarters;

(2) One space for every 200 storage cubicles to be located at the project office for the use of clients; provided access lanes and roads to the storage area are twenty feet in width to allow vehicles to unload and pass. If access lanes and roads are less than twenty feet in width, parking at a rate of one space per ten storage cubicles shall be provided equally throughout the storage area.

(f) Doctors' and dentists' offices: One space/ 225 sq. ft. of floor area.

(g) Drive-in restaurants: One space/40 sq. ft. of floor area.

(h) Bowling alleys: 4 spaces/lane (plus required parking for affiliated uses.)

(i) Auditoriums, theaters, grandstands, stadia, amphitheaters, and other places of public assembly: One space/50 sq. ft. of seating area plus parking for affiliated uses within 300 ft. of the main use.

(j) Recreational uses:

(1) Racquetball and other court games: Four spaces/court (plus required spaces for affiliated uses);

(2) Swimming pools: One space/100 sq. ft. of water surface (plus parking for affiliated uses) as determined by the city;

(3) Golf courses: Two spaces/hole of course, plus parking for affiliated uses.

(k) Hospitals: One space/2.5 beds, plus one space/employee on the largest shift.

(l) Churches, chapels, public schools, private schools having a curriculum equivalent to a public elementary or public high school, and private business or commercial schools: One space/50 sq. ft. in largest assembly hall as determined by the City.

(m) Academies, such as gymnastic, karate, judo, dance, or music academies: One space for every three students allowed per class session plus one space for every employee. In those instances where two sessions of classes occur one after another, without at least one-half hour separation between sessions, the maximum number of students allowed at both sessions shall be combined in determining the amount of required parking per class session.

(n) Housing for the physically handicapped: (see also Section 27.63.215) One space/ dwelling unit.

(o) Domestic shelters: One space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shift.

(p) Salvage yard: Six spaces, two spaces/ acre of lot area or one space/1,000 square feet of floor area, whichever is greater.

(q) Dwellings for members of a religious order: one space for every three residents.

(r) Warehouses:

(1) Warehouses with a floor area of 50,000 square feet or less: one space per every 1,000 square feet of floor area or a minimum of one space per employee on the largest shift. The floor area shall be calculated based on the total floor area of all structures on the lot.

(2) Warehouses with a floor area of more than 50,000 square feet: one space per every 1,000 square feet of floor area for the first 50,000 square feet of floor area and one additional space per 2,000

square feet of floor area in excess of 50,000 square feet, or a minimum of one space per employee on the largest shift. The floor area shall be calculated based on the total floor area of all structures on the lot.

(3) If the number of spaces required by the building ratio is greater than required by the employee ratio in (1) or (2) above, the additional parking spaces need not be provided physically, but sufficient areas shall be reserved for to accommodate construction of the additional spaces. If the Building Official finds at any time that the character of the use of the warehouse is such as to require the full provision of parking facilities to be constructed, the Building Official shall report this fact to the City Council which may, after holding a hearing of which the owner shall be notified, require such additional parking to be installed.

(s) Hotels and motels: one space per room and one space per 100 square feet of accessory uses.

(t) Restaurants and Social Halls: one space per 100 square feet.

(u) Dwellings for caretakers employed and residing on the premises: one space per dwelling unit.

(v) Early childhood care facilities: One space/ employee on the largest shift, plus off-street loading/unloading area for one automobile per ten care receivers. Joint parking with another use is acceptable if the early childhood care facility and the other use have nonconcurrent parking demands.

(w) Residential Healthcare Facilities: One space for every four residents and two spaces for every three employees on the largest shift.

(x) Sale of alcoholic beverages for consumption on the premises: One space per 100 square feet of floor area.

(y) Greenhouses and garden centers located in the AG or AGR zoning districts: For greenhouses, one parking space shall be provided for each employee on the maximum shift. Parking for greenhouses and garden centers in the AG zoning district may be provided on unpaved areas, except for ADA accessible stalls.

(z) Heritage Centers and Agricultural Attractions located in the AG zoning district: One space shall be provided for every 200 square feet of floor area devoted to permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre included within the special permit area. Parking may be provided on unpaved areas, except for ADA accessible stalls.

(aa) Community Halls, Farm Wineries, and Market Gardens located in the AG and AGR zoning districts: There shall be adequate parking for vehicles compatible with the number of people using the facility.

(bb) Off-street Freight Loading Requirements. At the time of construction, alteration, or enlargement of any commercial or industrial building having a floor area of 10,000 square feet or more, and containing a use or uses which requires off-street freight loading, off-street freight loading areas shall be provided on the premises to serve the use and maintained as follows:

(1) Six hundred square feet for the first 10,000 square feet of floor area;

(2) An additional 600 square feet for each additional 20,000 square feet of floor area.

(cc) Joint Parking. Uses that have nonconcurrent parking demand may join their parking facilities so as to reduce aggregate parking requirements as follows:

(1) B-5 District. The uses shall be located in the B-5 District and may include adjacent churches or chapels located outside the B-5 District. Uses that have nonconcurrent parking demand may join their parking facilities; however, the use having the largest floor area shall provide 4.5 parking spaces for every 1,000 square feet of floor area, and all other uses included in the joint parking arrangement shall provide two parking spaces per 1,000 square feet of their floor area; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event that future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(2) O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4 Zoning Districts. The uses shall be located in the following zoning districts: O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4, and may include uses in adjacent O-2 districts and adjacent churches and chapels outside the above districts. The aggregate parking requirement shall be computed on the basis of providing the parking required for that use or those uses having concurrent parking demand that have the largest parking demands as determined by the parking matrix (Section 27.67.020) and any additional conditions in this chapter; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event that future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(3) O-1 District. The uses shall be located in the O-1 District and may include adjacent churches or chapels located outside the O-1 District. Uses that have nonconcurrent parking demand may join their parking facilities. The aggregate parking requirement shall be computed on the basis of providing the parking required for that use or those uses having concurrent parking demands that have the largest parking

demands as determined by the parking matrix and any additional conditions in this chapter; provided, however, that the number of additional spaces that would be required in the absence of this paragraph need not be provided physically, but sufficient land shall be reserved in the event the future uses may not have nonconcurrent parking demand. For the purpose of determining the adequacy of the joint parking arrangement, all such joint parking use shall be authorized by a written agreement between the city and all parties to such use.

(dd) Data Center: Two (2) spaces per three (3) employees on largest shift, plus land shall be reserved to provide required parking for office uses in the underlying zoning districts in the event the Data Center is changed to another office use.

(ee) Urban Gardens greater than two acres in size shall provide three off-street parking stalls per every acre or part thereof over two acres.

(ff) Joint parking is a permitted use in the O-3, R-T, B-2, B-5 and I-3 zoning districts under the following conditions:

(1) The joint use of parking lots and garages shall be authorized by a cross access easement or by other written agreement between the parties to such joint parking ("Joint Use Agreement").

(2) The minimum aggregate number of parking stalls provided under the Joint Use Agreement shall be equal to the sum of the required parking for each use.

(3) The Joint Use Agreement shall be submitted to and approved by the City Law Department.

(4) The Joint Use Agreement shall be filed of record with the Register of Deeds for Lancaster County, Nebraska and indexed against the affected properties.

(gg) Dwellings for Nonrelated Persons, for four to six persons living as a single housekeeping unit permitted under a community unit plan: One space per resident. (Ord. 20263 §1, November 2, 2015: prior Ord. 20043 §5; June 30, 2014: Ord. 19733 §33; June 25, 2012: Ord. 19710 §1; April 30, 2012: Ord. 19702 §5; April 16, 2012: Ord. 19547 §3; June 6, 2011: Ord. 19406 §2; June 28, 2010: Ord. 18977 §9; August 20, 2007: Ord. 18903 §14; March 26, 2007: Ord. 18680 §1; March 13, 2006: Ord. 17418 §3; October 5, 1998: Ord. 16854 §45; August 14, 1995: Ord. 16253 §3; October 26, 1992: Ord. 15861 §1; April 15, 1991: Ord. 14185, as amended by Ord. 14276, November 25, 1985: Ord. 13610 §1; June 6, 1983: Ord. 13546 §11; February 28, 1983: Ord. 13302 §9; February 1, 1982: Ord. 13291 §1; January 4, 1982: Ord. 12751 §24; November 5, 1979: Ord. 12679 §5; September 4, 1979: Ord. 12571 §356; May 8, 1979).

27.67.050 Special Conditions; B-4 Zoning District.

The following special parking requirements shall apply to the B-4 zoning district:

(a) In the area located from 150 feet east of 17th Street to the western boundary of the B-4 District, there will be no parking requirements. There will also be no parking requirements in the area located between the centerline of "N" Street and the centerline of "P" Street from 150 feet east of 17th Street to the eastern boundary of B-4 District.

(b) In the area located from150 feet east of 17th Street to the eastern boundary of the B-4 District, not specifically excepted in section (a) above, the following shall be provided on site or within 300 feet of the premises:

(1) Industrial and manufacturing uses: Two spaces per three employees on the largest shift, or one space per 1,000 square feet of floor area; provided, however, that if the number of spaces required by the building ratio is greater than that required by the employee ratio, the additional parking spaces need not be provided physically, but sufficient space shall be reserved for future physical development.

(2) Other commercial business and office uses: One parking space per 600 square feet;

(3) Residential uses: One parking space per dwelling unit. (Ord. 19132 §8; September 8, 2008: prior Ord. 13442 §1; September 7, 1982: Ord. 12571 §357; May 8, 1979).

27.67.065 Special Conditions; O-3 Zoning District.

In the O-3 zoning district, the following parking regulations shall apply:

(a) Two parking spaces per dwelling unit, however, the City Council may reduce the parking requirement to no less than one and one-half parking spaces per dwelling unit when the application includes information justifying the reduction;

(b) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(c) All other parking requirements in the O-3 zoning district shall apply. (Ord. 20043 §6; June 30, 2014: prior Ord. 17949 §2; December 17, 2001: Ord. 16958 §3; March 25, 1996: Ord. 13526 §1; January 3, 1983: Ord. 12878 §3; March 31, 1980).

27.67.066 Special Conditions: H-3 Zoning District.

The following special parking requirements shall apply to uses in the H-3 zoning district.

(a) Vehicle body repair shops, truck and heavy equipment sales, farm machinery sales establishments, motor truck terminals, mobile home sales, places of business of plumbing and heating and air conditioning contractors and cabinet shops, automobile sales and repair, but not including vehicle repair shops, and assembly facilities: One space per 500 square feet of floor area, or one space per employee on the largest shift; however, if the number of spaces required by the building ratio is greater than that required by the employee ratio, the additional parking spaces need not be provided physically, but sufficient space shall be reserved for future physical development.

(b) All other parking requirements in the H-3 zoning district shall apply. (Ord. 20108 §11; November 17, 2014: prior Ord. 17311 §3; March 23, 1998).

27.67.070 Special Conditions; R-6, R-7, and R-8 Zoning Districts.

In the R-6, R-7, and R-8 zoning districts, parking is permitted in the required side yard, provided that there shall be no parking within seven feet of any side lot line and parking is permitted in the area behind all buildings within the required side yard up to any side lot line. (Ord. 12657 §15; August 6, 1979: prior Ord. 12571 §359; May 8, 1979).

27.67.075 Special Conditions; Capitol Environs District.

(Ord. 20119 §1; December 15, 2014: prior Ord. 16958 §4; March 25, 1996).

27.67.080 Special Conditions; Personal Vehicles.

In the R-1, R-2, R-3 or R-4 residential districts, parking, in addition to, not in lieu of, the required parking space(s) in the zoning district shall be permitted under the following conditions:

(a) A personal vehicle, including a passenger car, recreational vehicle, trailer, boat, van, or pickup truck, may be parked inside of an enclosed structure when the structure conforms to the zoning requirements of the particular district in which it is located;

(b) A personal vehicle, including a passenger car, recreational vehicle, trailer, boat, van, or pickup truck, may be parked outside of an enclosed structure in the side yard or rear yard but not within two feet of a property line;

(c) A recreational vehicle, trailer, or boat may be parked outside of an enclosed structure in the required front yard on a concrete driveway or its equivalent under the following conditions:

(1) Space is unavailable in the rear yard or outside the side yard and there is no reasonable access to either the rear yard or side yards. A corner lot is always deemed to have reasonable access to the rear yard; a fence is not deemed to prevent reasonable access.

(2) Enclosed parking is not possible in conformance with the requirements of the district; such enclosure is not a requirement for parking a recreational vehicle, trailer, or boat;

(3) The recreational vehicle, trailer, or boat is parked perpendicular to the front curb;

(4) The recreational vehicle, trailer, or boat may be parked not less than two feet from the front property line, and not less than two feet from the side lot line.

(5) No part of the recreational vehicle, trailer, or boat may extend over the public sidewalk or the public right-of-way.

(6) Parking is permitted only for storage and any recreational vehicle, trailer, or boat shall not be:

(i) used for dwelling purposes for more than fourteen days in any calendar year; cooking is not permitted at any time;

(ii) permanently connected to sewer lines, water lines, or electricity. A recreational vehicle may be connected to electricity temporarily for charging batteries;

(iii) used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use.

(7) Notwithstanding the provisions of this section, the recreational vehicle, trailer, or boat may be parked anywhere on the premises during loading or unloading, and the use of electricity or water is permitted when necessary to prepare a recreational vehicle for use.

(8) The recreational vehicle, trailer, or boat shall be owned by the resident on the property where the recreational vehicle, trailer, or boat is parked for storage. (Ord. 14215 §2; September 9, 1985: prior Ord. 12571 §360; May 8, 1979).

27.67.085 Special Conditions; Unregistered, Wrecked, or Junked Vehicles.

No unregistered motor vehicle or trailer and no non-operating, wrecked, junked, or partially dismantled vehicle may be stored or parked in any zoning district for more than thirty days except under the following

conditions:

(a) In all zoning districts, any unregistered motor vehicle and any non-operating, wrecked, junked. or partially dismantled vehicle may be stored or parked inside an enclosed structure when the structure conforms to the zoning requirements of the particular district in which it is located.

(b) In the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the City Clerk may grant an administrative permit to permit the storage or parking of up to two unregistered motor vehicles and/or non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes as follows:

(1)Application for the administrative permit shall be filed in writing with the City Clerk on a form provided by the City and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number of each vehicle to be restored or repaired.

(2)The vehicle(s) to be restored or repaired shall be owned by the applicant.

(3)The fee for such administrative permit shall be $50.00 per vehicle.

(4)The permit shall cover the vehicle(s) only and does not authorize the storage of any miscellaneous vehicle parts or junk contained in, on or near the vehicle(s).

(5)All such permits shall expire 180 days following the date of issuance thereof.

(6)Administrative permits for said vehicles shall be renewable one time only upon payment of the $50.00 fee per vehicle.

(c) This section shall not apply to a vehicle on the premises of a business enterprise operating in a lawful place and manner, when necessary to the lawful operation of such business enterprise, a vehicle on the premises of a farmstead as defined in Neb. Rev. Stat. §15-905 (Reissue 1997) when necessary for the operation of the farmstead, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner.

(d) Hobbyist Permits. An unregistered motor vehicle or non-operating, wrecked, junked, or partially dismantled vehicle lawfully stored or parked in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, or R-8 zoning district under a hobbyist permit issued in accordance with Lincoln Municipal Code Section 10.42.115 shall be deemed to have received an administrative permit as herein required.

(e) For the purposes of this section, the terms "motor vehicle," "trailer," and "vehicle" shall have the same definition as provided for those respective terms in Chapter 10.02 of the Lincoln Municipal Code. (Ord. 17753 §1; October 30, 2000).

27.67.090 Special Conditions; Nonconforming Uses.

If a nonconforming use is changed to a more restrictive nonconforming use or to a conforming use, it shall comply with all of the parking requirements of this chapter for such use.

A residential use which is nonstandard as to parking as of March 27, 1996 shall be allowed to continue.

A residential use which is nonstandard as to parking may not be converted to a use which would make it more nonstandard as to parking.

A residential use which is nonstandard as to parking may be converted to a use that would make it less nonstandard as to parking. (Ord. 16958 §5; March 25, 1996: prior Ord. 12571 §361; May 8, 1979).

27.67.100 Special Conditions; Parking Lots.

(a) Parking lots consisting of six or more parking spaces located in any zoning district except for nonpermanent lots that are allowed for no more than a period of two years, and lots for the purpose of sale, resale, or servicing of vehicles shall be constructed in accordance with the following requirements:

(1) Design standards: The City of Lincoln shall adopt design standards to be approved by resolution of the City Council for surfacing, drainage, barriers, screening, lighting, landscaping, and layout of the parking lots and place the same on file with the City Clerk. All parking lots authorized by this chapter shall be constructed pursuant to and in conformance with the design standards adopted by the city and on file with the City Clerk.

(2) Barriers: An adequate barrier shall be provided along the outer edge of the parking lot as required by Section 10.32.240 and Section 10.32.250 of the Lincoln Municipal Code. Barriers shall be located to prevent the parking of vehicles in the required front yard when prohibited by this title, and to provide protection to any landscaping or screen planting. Barriers shall be in conformance with Chapter 14.44 of the Lincoln Municipal Code and any applicable standards adopted by resolution of the City Council.

(3) Entrances and exits: The location and design of all entrances and exits shall be subject to the approval of the city.

(4) Lighting: Lighting in parking lots shall be in conformance with the Design Standards for Outdoor Lighting.

(5) Signs: Only one sign, not to exceed three square feet in area and not located on public right-of-way, is permitted at each entrance and/or exit designating that entrance or exit and may state conditions of use of the parking lot. No other signs except as otherwise permitted in the zoning district shall be permitted except (i) one-way driveway signs which shall be the same size and located in the same manner as entrance or exit signs; and (ii) signs for parking spaces for the handicapped conforming to adopted design standards.

(b) Nonconforming parking lots: All parking lots lawfully existing on the effective date of this ordinance may be continued, although such parking lots do not conform to the provisions hereof. Such lots shall be maintained in conformance with Title 8 of the Lincoln Municipal Code. Such nonconforming parking lot may not be enlarged or extended, except as provided herein. In the event that such parking lots are discontinued or the normal operation thereof is stopped for a period of two years, any resumption of the use of said parking lot shall thereafter conform to all of the requirements of this ordinance.

(c) Waiver of surfacing requirement: Upon application to the City Council, the owner of a parking lot may be relieved of the surfacing requirement of this section if the council finds that:

(1) The parking lot is (i) to be used in conjunction with a nonprofit, religious, educational, or philanthropic institution; (ii) in excess of the parking required by the provisions of this title and not pay parking; or (iii) used for employee parking and located wholly within an industrial district; and

(2) Alternate materials or techniques shall be utilized which provide reasonable control of dust, runoffs, and safe circulation; and

(3) (i) The location of the parking lot is a sufficient distance from surrounding uses that it will not adversely affect the surrounding uses; or

(ii) The frequency of use of the parking lot is so low that compliance with the surfacing requirement of this section would cause undue economic hardship upon the owner as compared with minimal impact upon surrounding land uses.

Notwithstanding that a waiver is granted, if it is later found that dust or noise, created by the use of a parking lot exceeds the maximum levels set forth in Title 8 of the Lincoln Municipal Code, then such waiver may, after notice and hearing by the City Council, be revoked. Thereafter, the use of such parking lot shall cease unless surfaced in accordance with the adopted design standards.

(d) The following provisions shall apply to extension and enlargement of nonconforming parking lots:

(1) If an existing nonconforming parking lot having less than twenty spaces is expanded fifty percent or more in area, the extension shall be surfaced in conformance with the appropriate design standards.

(2) If an existing nonconforming parking lot with twenty spaces or more is expanded twenty-five percent or more in area, the extension shall be surfaced in conformance with the appropriate design standards.

(e) In the event that the main use of a lot for a nonstandard or nonconforming parking lot is changed in whole or in part to another use, any continued use or resumption of the use of said lot for parking shall thereafter conform to all the requirements of this ordinance. (Ord. 19139 §5; September 15, 2008: prior Ord. 14254 §1; October 21, 1985: Ord. 14084 §1; April 15, 1985: Ord. 14007 §1; December 10, 1984: Ord. 12848 §1; February 19, 1980: Ord. 12571 §362; May 8, 1979).

Figure 27.67.020
PARKING MATRIX

Parking Spaces Required

Zoning Districts	Dwellings				Office/Retail/Commercial Uses							Industrial Uses
	0.5 per dwelling unit	1 per dwelling unit	1.75 per dwelling unit	2 per dwelling unit	1 per 1,200 sq. ft.	2 per 3 persons on max. shift or 1 per 1,000 sq. ft. *	1 per 600 sq. ft.	1 per 500 sq. ft.	1 per 300 sq. ft.	4.5 per 1,000 sq. ft.	1 per 150 sq. ft.	2 per 3 persons on maximum shift or 1 per 1,000 sq. ft. *
AG	AG District: None except uses with special parking requirements listed under Section 27.67.040 of the Lincoln Municipal Code.											
AGR				•								
R-1				•								
R-2				•								
R-3				•								
R-4				•								
R-5			•									
R-6			•									
R-7		•										
R-8		•						•				
R-T		•							•			
O-1	•				within 900'							
O-2		•							•			
O-3				•					•			
B-1		•							within 300'			
B-2		•							within 300'			
B-3		within 300'					within 300'					
B-4	B-4 District: Refer to special parking requirements under Section 27.67.050 of the Lincoln Municipal Code											
B-5				•						•		
H-1											•	
H-2									within 300'			
H-3									within 300'			
H-4									•			
I-1						within 300'						within 300'
I-2						within 300'						within 300'
I-3									•			•

* If the number of spaces required by the building ratio is greater than required by the employee ratio, an additional parking area shall be reserved to accommodate the construction of the additional spaces.
Refer to Figure 27.67.040 of the Lincoln Municipal Code for a list of uses with special parking requirements.
Refer to Section 27.67.040 of the Lincoln Municipal Code for uses with special parking requirements.
Refer to Section 27.67.066 of the Lincoln Municipal Code for uses in the H-3 district with special parking requirements.
Any parking requirement resulting in a partial parking space shall be rounded up to the next whole number as per Section 27.67.030(e) of the Lincoln Municipal Code.

Figure 27.67.040

Uses with Special Parking Requirements

The following uses have special parking requirements that shall apply in place of the general parking requirements found in Section 27.67.020:

Academies ..... 27.67.040(m)
Adult day services facility ..... 27.67.040(c)
Agricultural attractions (located in the AG zoning district) ..... 27.67.040(z)
Amphitheaters ..... 27.67.040(i)
Auditoriums ..... 27.67.040(i)
Bowling alleys ..... 27.67.040(h)
Chapels ..... 27.67.040(l)
Churches ..... 27.67.040(l)
Community halls (located in the AG zoning district) ..... 27.67.040(aa)
Court games ..... 27.67.040(j)
Data center ..... 27.67.040(dd)
Dentists' offices ..... 27.67.040(f)
Doctors' offices ..... 27.67.040(f)
Domestic shelters ..... 27.67.040(o)
Drive-in restaurants ..... 27.67.040(g)
Dwellings for members of a religious order ..... 27.67.040(q)
Dwellings for caretakers employed and residing on premises ..... 27.67.040(u)
Early childhood care facilities ..... 27.67.040(v)
Elderly housing ..... 27.67.040(d)
Farm wineries ..... 27.67.040(aa)
Fraternities ..... 27.67.040(a)
Grandstands ..... 27.67.040(i)
Greenhouses (located in the AG or AGR zoning districts) ..... 27.67.040(x)
Group homes ..... 27.67.040(b)
Golf courses ..... 27.67.040(j)
Healthcare residential ..... 27.67.040(w)
Heritage centers (located in the AG zoning district) ..... 27.67.040(z)
Hospitals ..... 27.67.040(k)
Hotels ..... 27.67.040(s)
Housing for the physically handicapped ..... 27.67.040(n)
Joint parking ..... 27.67.040(cc)(ff)
Market Garden ..... 27.67.040(aa)
Mini-warehouses ..... 27.67.040(e)
Motels ..... 27.67.040(s)
Off-street freight loading requirements ..... 27.67.040(bb)
Places of public assembly ..... 27.67.040(i)
Private business or commercial schools ..... 27.67.040(l)
Private schools having a curriculum equivalent to a public school ..... 27.67.040(l)
Public schools ..... 27.67.040(l)
Recreational uses ..... 27.67.040(k)
Restaurants (also see Drive-in restaurants) ..... 27.67.040(t)
Retirement housing ..... 27.67.040(d)
Salvage yards ..... 27.67.040(p)

(Continued on Next Page)

Figure 27.67.040 *(Cont.)*

Uses with Special Parking Requirements

Sale of alcoholic beverages for consumption on the premises ..... 27.67.040(x)
Social halls ..... 27.67.040(t)
Sororities ..... 27.67.040(a)
Stadia ..... 27.67.040(i)
Swimming pools ..... 27.67.040(j)
Theaters ..... 27.67.040(i)
Warehouses ..... 27.67.040(r)
Urban gardens ..... 27.67.040(ee)

Chapter 27.72

HEIGHT AND LOT REGULATIONS

Sections:

27.72.010 Height and Lot Regulations AG and AGR Districts.
27.72.020 Height and Lot Regulations R-1 through R-8 Districts.
27.72.030 Height and Lot Regulations Commercial Zoning Districts.
27.72.040 Height and Lot Regulations Highway Commercial Zoning Districts.
27.72.050 Height and Area Regulations Industrial Zoning Districts.
27.72.060 Used Permitted or Prohibited Within Required Yards.
27.72.070 Additional Front Yard Requirements.
27.72.080 Exceptions to the Front Yard Requirements.
27.72.090 Exceptions to the Side Yard Requirements.
27.72.100 Exceptions to the Rear Yard Requirements.
27.72.110 Exceptions to the Height Requirements.
27.72.120 Accessory Buildings.
27.72.130 Open Space Requirements.
27.72.140 Fences.
27.72.150 Small Lots in the R-3 Zoning District.
27.72.160 Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot.
27.72.170 Building Line District.
27.72.180 Additional Exceptions to the General Requirements.
27.72.190 Minor Modifications.

27.72.010 Height and Lot Regulations AG and AGR Districts.

The maximum height and minimum lot requirements within the AG and AGR Districts shall be as follows:

(a) **AG District General Requirements**. See Table 27.72.010(a) below:

Table 27.72.010(a)
Maximum Height and Minimum Lot Requirements for the AG District

		AG	AG (farmstead splits)
All Allowed Uses	Lot Area	20 acres	1 acre
	Avg. Lot Width	550'	150'
	Frontage	550'	120'
	Front Yard	50'	50'
	Side Yard	60'	15'
	Rear Yard	100'	Lesser of 50' or 20% of the depth
	Height	35'	35'

For purposes of this section, minimum lot area, county section, and one-half section line road right-of-way are included for the purpose of determining area.

(b) **AGR District General Requirements.** See Table 27.72.010(b) below:

	Table 27.72.010(b) Maximum Height and Minimum Lot Requirements for the AGR Districts	
All Allowed Uses	Lot Area	3 acres
	Avg. Lot Width	220'
	Frontage	175'
	Front Yard	50'
	Side Yard	15'
	Rear Yard	Lesser of 50' or 20% of the depth
	Height	35'
If such lot abuts a cul-de-sac, the above requirements for average lot width and frontage may be met by providing a frontage of 175 feet measured at the required front yard line.		

(c) **Exceptions to the Minimum Lot Requirements in the AG and AGR Districts.**

(1) If a lot in the AG zoning district has less area, width, or frontage or any combination thereof than herein required, and its entire boundary was under different ownership on the effective date of this title and has not since been changed, such lot or tract of land may be used for any of the uses listed in and in conformance with Table 27.72.010(c) below or for any permitted conditional use or permitted special use allowed on lots less than 20 acres in Chapters 27.62 and 27.63, respectively.

(2) If a lot or tract of land in the AGR zoning district has less area or width, or both less area and width, than herein required, and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such lot or tract of land may be used for any of the uses listed in and in conformance with Table 27.72.010(c) column (b) below or for any permitted conditional use or permitted special use allowed on lots less than 20 acres in Chapters 27.62 and 27.63, respectively.

(3) In the AGR zoning district, if a lot has less area, width or frontage or any combination thereof than herein required, and if on January 16, 1989, the area of the lot was one acre or more, and the average lot width of the lot was 150 feet or more and the frontage of the lot was 120 feet or more, such lot or tract of land may be used for any of the uses listed in and in conformance with Table 27.72.010(c) column (a) below or for any permitted conditional use or permitted special use allowed on lots less than 20 acres in Chapters 27.62 and 27.63, respectively.

Table 27.72.010(c) Exceptions to the Minimum Lot Requirements in the AG and AGR Districts		
Use Type	**(a) 10 acres or more***	**(b) Less than 10 acres**
Agriculture, except commercial feedlots	P	P
Breeding, raising, management, and sale of fur-bearing animals and the produce thereof; Dog Breeding Establishment and Kennels	P	
Stables and riding academies	P	
Public use	P	P
Single-family dwelling	P	P

Use Type	(a) 10 acres or more*	(b) Less than 10 acres
Churches	P	P
* A lot which was 10 acres or more, but which has since been reduced in area by public acquisition for right-of-way purposes, may be devoted to any of the uses permitted for 10 acres or more if the remaining area of such lot is nine or more acres.		

(4) In the AG zoning district: if two or more abutting lots in common ownership exist on the effective date of this title, each of such lots may be used for a single-family dwelling, provided, that each such lot shall contain a minimum area of two acres and shall have an average lot width of 150 feet. Abutting lots in common ownership which do not contain a minimum of two acres and an average lot width of 150 feet may be combined to meet these requirements. If any of the abutting lots in common ownership have less width or depth than herein required, the required side and rear yard may be adjusted as provided in (c)(1) and (c)(2) above, respectively.

(5) In the AG zoning district, a lot or tract of land of one acre or more may be used for a single-family dwelling or public utility and distribution system purposes provided that:

(i) For single-family dwelling use:

A. The dwelling has existed on such lot or tract of land for more than five years.

B. The dwelling is or has been used on the primary residence associated with a farm.

C. Such lot or tract of land and buildings shall be in conformance with the following maximum height and minimum lot requirements: General Requirements -- See Table 27.72.010(a) (farmstead splits).

D. However, if the lot or tract of land used for the dwelling do not meet the requirements of item Table 27.72.010(a) (farmstead splits), the single family dwelling shall be considered a non-standard use.

E. Such dwelling is in conformance with the other provisions of this title, the minimum housing code, and the minimum standards for water and sewage facilities.

(ii) For public utility and distribution system purposes:

A. Such lot or tract of land shall not be used, by itself, for any other purpose except agriculture

(6) In the AG zoning district, in all interior sections of a township, the minimum area for a buildable lot shall be one-half of the total acreage contained in that quadrant of the quarter section in which said lot is located. In all closing sections (any section of land bordering on the north or west line of a township) except those which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be as follows:

(i) For those lots located within a Government Lot (a lot created by the original government survey and recorded in the surveyor's records of Lancaster County), the minimum required area shall be one-half of the total acreage contained in said Government Lot;

(ii) For those lots which are not located within a Government Lot, the minimum required area shall be one-half of the total acreage contained in that quadrant of the quarter section in which said lot is located.

(iii) In those closing sections which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be twenty acres, provided, however that the Board of Zoning Appeals, in conformance with the terms of Chapter 27.75, may hear and decide upon petitions to vary strict application of this requirement.

(Ord. 20212 §4; July 13, 2015: prior Ord. 20194 §2; May 11, 2015: Ord. 20137 §2; January 26, 2015: Ord. 19827 §29; February 25, 2013).

27.72.020 Height and Lot Regulations R-1 through R-8 Zoning Districts.

The maximum height and minimum lot requirements within the R-1 through R-8 Districts shall be as follows:

(a) **R-1, R-2, R-3 and R-4 General Requirements.** See Table 27.72.020(a) below:

Table 27.72.020 (a)
Maximum Height and Minimum Lot Requirements for the R-1 through R-4 Districts

		R-1	R-2	R-3	R-4
Single-family Dwelling	Lot Area (sq. ft.)	9,000	6,000	6,000	5,000
	Avg. Lot Width	60'	50'	50'	50'
	Front Yard	30'	25'	20'	25'
	Side Yard	10'	5'	5'	5'
	Rear Yard	Smaller of 20' or 20% of the lot depth			
	Height	35'	35'	35'	35'
Two-family Dwelling	Lot Area per Family (sq. ft.)	7,200	5,000	5,000	2,500
	Avg. Lot Width per Family	48'	40'	40'	25'
	Front Yard	30'	25'	20'	25'
	Side Yard (0' if party wall)	20'	10'	5'	5'
	Rear Yard	Smaller of 20' or 20% of the lot depth			
	Height	35'	35'	35'	35'
Other Allowed Uses	Lot Area (sq. ft.)	9,000	6,000	6,000	5,000
	Avg. Lot Width	60'	50'	50'	50'
	Front Yard	30'	25'	20'	25'
	Side Yard	10'	5'	5'	5'
	Rear Yard	Smaller of 30' or 20% of the lot depth			
	Height	35'	35'	35'	35'